

2025

# ZONING ORDINANCE OF MENARD COUNTY



*In harmony and good feeling, let us transact the business for which we  
have assembled and let no firebrands be cast amongst us to produce  
discord and dissensions ...*

*— A. Lincoln*



**MENARD COUNTY ZONING ORDINANCE**  
**Menard County, Illinois**

**PLANNING, AND ZONING ORDINANCE COMMITTEE**

Gwen Thomas, Zoning Administrator, chair  
Jeff Fore, Citizen member  
Ed Whitcomb, County Board member  
Dan Robertson, Zoning Board of Appeal member  
Steve Ozella, Zoning Board of Appeals member  
Jack Knuppel, Planning Commission member  
Mark Churchill, Planning Commission member  
Rod Reich, Planning Commission member

**ZONING BOARD OF APPEALS**

|                         |              |
|-------------------------|--------------|
| Dan Robertson, Chairman | Steve Ozella |
| Steve Wilken            | Chris Becker |
| Karen Stott             |              |

**MENARD COUNTY PLANNING COMMISSION**

|                     |              |
|---------------------|--------------|
| Rod Riech, Chairman | Dan Haynes   |
| Julie Wankel        | Donnie Fritz |
| Jack Knuppel        | John Dixon   |
| Mark Churchill      |              |

**COUNTY ADMINISTRATOR**

Dara Worthington

**COUNTY HIGHWAY ENGINEER**

Corey Dowd

**MENARD COUNTY PLANNING, BUILDING AND ZONING**

**Zoning Administrator, Gwen Thomas**  
**102 South Seventh Street**  
**Petersburg, Illinois 62675**

Adopted: January 1, 1999; Revised: February 27, 2001; Revised: July 30, 2002; Revised: September 10, 2002; Revised: November 26, 2002; Revised: June 24, 2003; Revised: April 13, 2004; Revised: August 10, 2004; Revised: April 26, 2005; Revised: February 28, 2006; Revised: May 30, 2006; Revised: October 3, 2006; Revised: November 28, 2006; Revised: April 10, 2007; Revised: June 26, 2007; Revised: September 25, 2007; Revised: November 13, 2007; Revised: April 29, 2008; Revised: June 10, 2008; Revised: July 30, 2008; Revised: July 14, 2009; Revised: September 8, 2009; Revised: November 24, 2009; Revised: January 26, 2010; Revised: February 9, 2010; August 30, 2011; May 29, 2012; July 10, 2012; April 28, 2015; February 28, 2017; June 12, 2018; February 22, 2022; April 26, 2022; August 30, 2022; October 11 2022, Revised: **January XX**, 2025

## **An Overview**

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

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

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

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

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

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

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

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

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## CHAPTER I

# SCOPE AND ADMINISTRATION

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### User note:

**About this chapter:** Chapter 1 establishes the limits of applicability of the code and describes how the code is to be applied and enforced. Chapter 1 is in two parts: Part 1—Scope and Application (Section 101) and Part 2—Administration and Enforcement (Sections 102–111).

*This code is intended to be adopted as a legally enforceable document and it cannot be effective without adequate provisions for its administration and enforcement. The provisions of Chapter 1 establish the authority and duties of the code officials appointed by the authority having jurisdiction and establish the rights and privileges of the design professional, contractor, and property owner in unincorporated Menard County.*

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## PART 1—SCOPE AND APPLICATION

### SECTION 101 GENERAL

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

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

This code has been adopted as a comprehensive amendment to a previously existing zoning ordinance (ordinance #XXXX, originally adopted on January 1, 1999). This is not an initial or original zoning ordinance as described in 55 ILCS 5/5-12007, but is an amendment to such an ordinance.

**101.03 EFFECTIVE DATE** This code is effective January 1, 1999.

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

**101.05 PURPOSES** This code is adopted for the following purposes:

- 1) To implement the County’s comprehensive/regional plan;
- 2) To exercise statutory zoning authority;
- 3) To protect and promote the public health, safety, morals, comfort, and general welfare;

- 4) To protect and promote the “public interest”.

**101.06 INTERPRETATION.** In the interpretation and application of the provisions of this code, it shall be held to be the minimum requirements deemed necessary for the promotion of the public health, safety, and general welfare.

- A. This code is not intended to abrogate any easement, covenant, or other private agreement but if the requirements of this code are more restrictive than such easements, covenants, or private agreements, the requirements of the code shall govern.
- B. The County of Menard does not enforce private deed restrictions, covenants, or agreements through its zoning code.
- C. To the extent that a building, structure, or use not lawfully existing at the time of the adoption of this code conflicts with the requirements of the code, that building, structure, or use shall remain unlawful subject to Part 2 102.01.
- D. Where conditions imposed by any provision of this code are either more or less restrictive than conditions imposed by any other provisions of any other law, ordinance, resolution, rule, or regulation applicable to property or to the use of property the regulation which is more restrictive or which imposes the higher standard or requirement shall govern.
- E. If any part or provision of this code or the application of this code to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder

of these regulations or the application of them to other persons or circumstances. The Menard County Commissioners hereby declare that they would have enacted the remainder of these regulations even without any such part, provisions, or application, which is judged to be invalid.

- F. Any structure hereafter erected shall conform to the provisions of this ordinance and the provisions of the *International Building Code* and of any other ordinance or regulation within this jurisdiction.

#### 101.03 REGULATORY PROVISIONS.

It shall be unlawful for any person:

- 1) To use or develop or permit the use or development of any property except in compliance with this code;
- 2) To cause or permit any contiguous property (public roads, streets, and alleys shall act as a demarcation line for purposes of determining contiguity. - i.e., lots/parcels owned by an entity but located across a public road from a lot/parcel owned by the same entity shall be deemed to be separate and distinct lots/parcels) in common ownership or unified control to be devoted to more than one principal use provided, however:
- 3) Lawful nonconformities involving multiple or mixed principal uses may be continued but not expanded;
- 4) Any conforming platted lot may be used or developed for a principal use separate from the principal use of the remaining contiguous property in common ownership or unified control;
- 5) Any combination of non-conforming platted lots which create a conforming parcel may be used or developed for a principal use separate from the principal use of the remaining contiguous property in common ownership or unified control;
- 6) To develop property without first obtaining a zoning permit;
- 7) To occupy newly developed property without first obtaining an occupancy permit;

- 8) To use any part of a lot, yard or other open space for off-street parking required in connection with one use for the purpose of causing or attempting to cause another use to comply with this code;
- 9) To violate or fail to meet any condition, requirement or prerequisite in the issuance or approval of any special use permit, or variation;
- 10) To knowingly submit false, inaccurate, or deceptive material in any complaint, or any application for a zoning permit, occupancy permit, special use permit, variation, appeal, text amendment or map amendment, or in any public hearing conducted pursuant to this code;
- 11) To violate any provision of this code.

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## **PART 2 – ADMINISTRATION AND ENFORCEMENT**

### **SECTION 102 EXISTING BUILDINGS AND USES**

#### 102.01 EXCEPTIONS AND TRANSITIONAL PROVISIONS.

Amnesty Provisions. Prior to the adoption of this code a variety of buildings, structures and uses have been established with the authorization and/or acquiescence of the County in ways that violated or arguably violated the provisions of prior zoning regulations. It is the intent of this code to henceforth consider all such buildings, structures, and uses that do not meet the requirements of this code to be lawful but non-conforming under the provisions of this code.

Buildings Under Construction. Where construction of a building has been lawfully commenced prior to the effective date of this code, and if construction is diligently pursued, the building may be completed and occupied as originally intended. Such buildings and uses shall be subject to the provisions of this Code pertaining to non-conformities if it is not in conformity with the provisions of this code.

Uses and Structures. The following uses are permitted in all districts in the public right-of-way by utility permitting from the Menard County Highway Department: light poles, traffic regulatory signs,

directional signs, street name signs, utility poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves, railroad right-of-way containing railroad tracks, public rights-of way, gas regulator stations, sewage lift stations, water wells and pumping stations when located underground. On private property, easements must be established and permitting by special use will be through Menard County Zoning.

Height Regulations. The following uses and structure are exempted from the height regulations in this code: appurtenances usually required to be placed above the roof level and not intended for human occupancy such as: church spires, belfries, cupolas, antennas, water tanks, flag poles, public monuments, and ventilators.

## **SECTION 103 PLANNING COMMISSION**

### 103.01 ESTABLISHMENT OF THE COMMISSION

The Menard County Planning Commission, which has been duly created by the Menard County Commissioners under Illinois State statute (55 ILCS 5/5-14001) is the Planning Commission referred to in this Code. The commission shall consist of the number of members as specified in state law. Additionally, one member of the Menard County Commissioners shall be permitted to be appointed as liaison to the commission. Such member shall have the right to attend all meetings and take part in all discussions, but shall not vote on commission decisions.

103.02 JURISDICTION. To conduct legislative public hearings and submit reports and recommendations to the County Commissioners on zoning text and district amendments or any other matter referred to it in the manner required by Section 108 of this Code.

103.03 TERMS FOR MEMBERS. The terms of office for the members of the commission shall be as set forth in state law. Members shall be permitted to be removed for cause upon written charges and after a public hearing before the Menard County Commissioners of the jurisdiction, if such a hearing is requested.

103.04 SELECTION OF MEMBERS. Members shall be appointed and approved by the Menard County Board. The terms of office for the commission members shall be staggered at intervals to provide continuity in policy and personnel. Members of the commission shall be residents of the jurisdiction

served. Compensation of members shall be set by the Menard County Board.

- A. Any vacancy for the unexpired term of any member whose term is not completed shall be filled. A member shall continue to serve until a successor has been appointed and approved by the Menard County Commissioners.

### 103.05 CHAIRPERSON ELECTION AND RULES

ADOPTION. The commission shall elect from its membership a chairperson. It shall establish and adopt rules for its organization and transaction of business and shall keep a public record of its proceedings.

103.06 COMMISSION SECRETARY. A secretary to assist the commission shall be appointed by the Zoning Administrator. The secretary shall keep minutes of the commission meetings for public record and conduct all correspondence, including the notification of decisions. The secretary shall certify the records.

The secretary shall prepare and submit the minutes of commission meetings to the chairperson and the commission.

103.07 DUTIES AND POWERS. The duties and powers of the planning commission shall be in accordance with Sections 103.01 through 103.11.

103.08 COMPREHENSIVE PLAN. It shall be the duty of the commission, after holding public hearings, to create and recommend to the Menard County Commissioners a comprehensive plan for the physical development of the jurisdiction, which shall be permitted to include areas outside its boundaries that bear consideration to the planning of the jurisdiction.

The comprehensive plan shall include at least the following elements:

- 1) Official maps.
- 2) Growth and land use.
- 3) Commercial/industrial uses.
- 4) Transportation and utilities.
- 5) Community facilities.
- 6) Housing.
- 7) Environmental.
- 8) Geologic/natural hazards.

The commission shall be permitted to recommend amendments to the comprehensive plan regarding the administration or maintenance of this code.

103.09 ZONING CODE. It shall be the duty of the commission to develop and recommend to the Menard County Commissioners a zoning code or

ordinance, in accordance with the guidelines of the comprehensive plan, establishing zones within the jurisdiction.

Such a code or ordinance shall be made in regards to the character of each district and the most appropriate use of land within the jurisdiction. The commission shall make periodic reports and recommendations to the Menard County Commissioners.

**103.10 DIVISION OF LAND REGULATIONS.** It shall be the duty of the commission to develop and certify, regulations governing the division of land. Divisions of land shall be in accordance with the adopted regulations.

**103.11 OFFICIAL ZONING MAP.** The legislative body shall adopt an official zoning map for all areas included within the jurisdiction.

**103.12 APPEALS AND HEARINGS.** Any person with standing aggrieved by any decision of the commission shall have the right to make such appeals as shall be permitted to be provided by this code or state law. Such appeals shall be based on the record and made before the Menard County Board.

## **SECTION 104 DUTIES AND POWERS OF THE ZONING ADMINISTRATOR**

**104.01 ZONING ADMINISTRATOR** The Menard County Board of Commissioners shall designate the Zoning Administrator who shall administer and enforce this code.

**104.02 INTERPRETATION** The Zoning Administrator shall: interpret, construe, and apply the provisions of this Code;

**104.03 NOTIFICATION** Notify any person responsible for violating any of the provisions of this Code, indicating the nature of the violation and ordering the action necessary to correct the violation;

**104.04 ORDERS** Order discontinuance of uses of land, buildings, or structures; order removal of buildings or structures; order alteration or structural changes of buildings or structures; order discontinuance of work being done; enforce the provisions of all Special Use Permits and variations; and take any other action individually or in cooperation with the Menard County State's Attorney to ensure compliance with or to prevent violation of the provisions of this code;

**104.05 PERMITTING** Issue zoning and occupancy permits, and make and maintain records thereof;

**104.06 INSPECTION** Conduct inspections of building, structures, and use of land to determine compliance with this code;

**104.07 RECORDS** Maintain permanent and current records pertaining to this Code, including but not limited to: the Zoning Code and map, all amendments to the Code or map, all special uses, all variations, all appeals, records of all nonconformities; and building and development applications;

**104.08 COMMUNICATE** Provide and maintain public information relative to all matters arising out of this Code;

**104.09 AMENDMENTS** Initiate, direct and review, from time to time, a study of the provisions of this code, and make reports and recommendations to the County Commissioners;

**104.10 DEPUTIES** Supervise and direct such assistants, including the Zoning Officer, as may be authorized by the County Commissioners.

**104.11 INTERPRETATIONS.** The interpretation and application of the provisions of this code shall be by the Zoning Administrator or their designee. An appeal of an interpretation by the code official shall be submitted to the Board of Appeals, which, unless otherwise provided, is authorized to interpret the code and such interpretation shall be final. Uses are permitted within the various zones as described in this code and as otherwise provided herein. It is recognized that all possible uses and variations of uses that might arise cannot reasonably be listed or categorized. Mixed uses/sites or any use not specifically mentioned or about which there is any question shall be administratively classified by comparison with other uses identified in the zones described in this code. If the proposed use resembles identified uses in terms of intensity and character, and is consistent with the purpose of this code and the individual zone's classification, it shall be considered as a permitted/nonpermitted use within a general zone classification subject to the regulations for the use it most nearly resembles. If a use does not resemble other identified allowable uses within a zone, it may be permitted as determined by the hearing body in public hearing as an amendment to this code pursuant to Section 108.26.

**104.12 LIABILITY.** The code official, or designees, charged with the enforcement of this code, acting in

good faith and without malice in the discharge of the duties described in this code, shall not be personally civilly or criminally liable for any damage that may accrue to persons or property because of an act or by reason of an act or omission in the discharge of such duties.

104.13. LEGAL DEFENSE. A suit or criminal complaint brought against the code official or employee because of an act or omission performed by the code official or employee in the enforcement of any provision of such codes or other pertinent laws or ordinances implemented through the enforcement of this code, or enforced by the enforcement agency, shall be defended by the jurisdiction until final termination of such proceedings. Any judgment resulting therefrom shall be assumed by the jurisdiction.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or parcel of land for any damages to persons or property caused by defects, nor shall the enforcement agency or its jurisdiction be held as assuming any such liability by reason of the reviews or permits issued under this code.

104.14 COOPERATION OF OTHER OFFICIALS AND OFFICERS. The code official shall be authorized to request, and shall receive so far as is required in the discharge of the duties described in this code, the assistance and cooperation of other officials of the jurisdiction.

## **SECTION 105 COMPLIANCE WITH THE ORDINANCE**

105.01 GENERAL. Upon adoption of this code by the Menard County Board of Commissioners, no use, building or structure, whether publicly or privately owned, shall be constructed or authorized until the location and extent thereof conform to said plan.

## **SECTION 106 ZONING BOARD OF APPEALS**

106.01 AUTHORITY The Menard County Zoning Board of Appeals, which has been duly created by the Menard Board of County Commissioners, is the Zoning Board of Appeals or Board of Appeals referred to in this code.

106.02 JURISDICTION The Zoning Board of Appeals duties and responsibilities are, but are not limited to conduct administrative public hearings,

make findings of fact, and decide duly initiated appeals from any administrative order, requirement, decision, or determination made by the Zoning Administrator, Zoning Officer, or Assistants in the enforcement of this code in the manner provided in section 108.09 of this code;

106.03 HEARINGS ON VARIATIONS Conduct administrative public hearings, make findings of fact, and decide approval or disapproval of applications for variations;

106.04 HEARINGS ON SPECIAL USE Conduct administrative hearings, make findings of fact, and recommend to the County Commissioners approval or disapproval of applications for Special Use Permits;

106.05 HEARINGS ON MAP AMENDMENTS Conduct legislative public hearings and submit reports and recommendations to the County Commissioners on applications or proposals to amend the boundaries of the zoning districts created by this code;

106.06 HEARINGS ON CODE AMENDMENTS Conduct legislative public hearings and submit reports and recommendations to the County Commissioners on proposed amendments to the regulations imposed by this code;

106.07 HEARINGS ON SUBDIVISIONS Conduct legislative public hearings and recommend approval or disapproval of Preliminary Plans for subdivisions and, if directed by the County Commissioners, to report the Final Subdivision Plats in the manner provided in the County's Subdivision Regulations.

106.08 REVERSAL OF ORDERS The Zoning Board of Appeals may modify the Zoning Administrator's orders, requirements, determinations, interpretations, or applications of this Code, but shall do so only where the Zoning Administrator has either misinterpreted or erroneously applied the provisions of this Code or has misunderstood the factual situation giving rise to the appeal.

## **SECTION 107 HEARING OFFICER**

107.01 APPOINTMENT The Chairman of the Menard County Zoning Board of Appeals shall serve as Hearing Officer for the duration of their term. The Menard County Board may also appoint a Hearing Officer subject to state statute (55 ILCS 5/5-12015)

107.02 ALTERNATE The Hearing Officer may designate an alternate Hearing Officer. The alternate shall serve only in the absence of the regular Hearing Officer. The Hearing Officer, or in his absence the Alternate Hearing Officer may administer oaths and compel the attendance of witnesses. All testimony by any witness shall be given under oath.

107.03 REMOVAL The Menard County Board shall have the power to remove a Hearing Officer for cause, after public hearing, held after at least ten (10) days' notice to the member concerned, of the charges against him.

107.04 AT WILL Proceedings of the Hearing Officer shall be held at the call of the Hearing Officer and at such times and places within the County as the Hearing Officer may determine.

107.04 PUBLIC MEETINGS All meetings of the Hearing Officer shall be open to the public.

107.05 RULES The Hearing Officer shall adopt rules necessary to the conduct of its affairs and in keeping with the ZBA by-laws and with the provisions of this ordinance. Every rule, regulation, every amendment, or repeal thereof, and every order, requirement, decision, or determination of the Hearing Officer shall immediately be filed in the office of the Hearing Officer and shall be a public record.

107.06 MINUTES The minutes of the proceedings shall be kept in accordance with this ordinance. Hearing Officer or designee shall keep minutes of the proceedings, and shall also keep records of the examinations and other official actions.

107.07 EXPENSES In the performance of his duties the Hearing Officer may incur such expenditures as are authorized by the Menard County Board.

## **SECTION 108 HEARINGS, APPEALS AND AMENDMENTS**

108.01 INITIATION An appeal may be taken to the Zoning Board of Appeals by any person aggrieved by a decision of the Zoning Administrator.

108.02 APPLICATION An appeal shall be initiated by filing in the office of the Zoning Administrator in duplicate, a written statement of the order, requirements, determination, interpretation, or application appealed from and the factual situation giving rise to such action. Upon receipt of a completed application and required fee, one (1) copy

thereof will be forwarded to the Zoning Board of Appeals by the Zoning Administrator.

108.03 NOTIFICATION AND HEARING The Zoning Board of Appeals shall give notice and conduct an administrative public hearing on any appeal in the manner provided by section 108.10 of this code.

108.04 STANDARDS IN REVIEWING AN APPEAL The Zoning Board of Appeals shall prepare findings of fact from the evidence adduced at the administrative public hearing indicating the extent to which the following items are demonstrated:

- 1) That the Zoning Administrator misinterpreted or erroneously applied the provisions of the Code;
- 2) That the Zoning Administrator misunderstood the factual situation giving rise to the appeal.

The Zoning Board of Appeals may modify or reverse the action of the Zoning Administrator if either of the foregoing standards is demonstrated. If neither of the foregoing standards is demonstrated, the appeal shall be denied and the Zoning Administrator's action sustained. The Zoning Board of Appeals in hearing appeals shall not have the authority or power to change, modify, waive, or relax requirements or regulations of this code.

108.05 VOTE The concurring vote of four (4) members of the Zoning Board of Appeals or a quorum is necessary to reverse the Zoning Administrator.

108.06 DECISIONS All decisions of the Zoning Board of Appeals on appeals initiated hereunder shall be final and reviewable only in the courts in accordance with applicable Statutes of the State of Illinois.

108.07 STAY An appeal stays all proceedings in furtherance of the action appeal from, unless the Zoning Administrator certifies to the Zoning Board of Appeals that by reasons of facts stated in the certificate a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order issued by the Zoning Board of Appeals or by judicial action.

108.08 MEETINGS All meetings of the Zoning Board of Appeals shall be held at the call of the

Chairman and at such times and places as the Zoning Board of Appeals may determine.

108.09 ADMINISTRATIVE PUBLIC HEARING.

All administrative public hearings shall be held at regularly scheduled or properly called meetings of the Zoning Board of Appeals.

108.10 NOTICES Legal notice of an administrative public hearing shall be given at least 15 days before the hearing by publication of notice of the date, time, and place of such hearing in a newspaper or general circulation published in the road district in which such property is located. If no newspaper is published in such road district, then such notice shall be published in a newspaper of general circulation published in the county and having circulation where such property is located. The notice shall contain: (1) the particular location of the real estate by legal description and street address, and if no street address then by locating such real estate with reference to any well-known landmark highway, road, thoroughfare or intersection; (2) whether or not the petitioner or applicant is acting for himself or in the capacity of agent, alter ego, or representative of a principal, and stating the name and address of the actual and true principal; (3) whether petitioner or applicant is a corporation, and if a corporation, the correct names and addresses of all officers and directors, and of all stockholders or shareholders owning any interest in excess of 20% of all outstanding stock of such corporation; (4) whether the petitioner or applicant, or his principal if other than applicant, is a business or entity doing business under an assumed name, and if so, the name and residence of all true and actual owners of such business or entity; (5) whether the petitioner or applicant is a partnership, joint venture, syndicate or an unincorporated voluntary association, and if so, the names and addresses of all partners, joint ventures, syndicated members or member of the unincorporated voluntary association; and (6) a brief description of the matter being considered at the public hearing.

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

108.11 ADMINISTRATIVE PUBLIC HEARING PARTIES The applicant, Menard County, and person filing a written Entry of Appearance is a party to the administrative public hearing.

108.12 APPEARANCE OF OTHERS. Any person may appear and testify at an administrative public hearing, either in person or by a duly authorized

agent or attorney. Testimony shall be directly related to the subject of the appeal.

108.13 OATHS OR AFFIRMATION The Chairman may administer oaths or affirmations.

108.14 COMPELLING THE ATTENDANCE OF WITNESSES The Chairman may compel the attendance of witnesses by mailing to such persons at Notice compelling attendance not less than five (5) days before the Public Hearing. Failure of a person to appear in response to such Notice shall constitute a violation of this code.

108.15 RECORD KEEPING The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question or if absent or failing to vote, indicated such fact.

108.16 VERBATIM TRANSCRIPTS The Zoning Board of Appeals shall make a sound recording of all administrative public hearings and shall retain such tape for not less than one (1) year following the closing of the hearing.

If any party desires a verbatim transcript of the administrative public hearing, a written request shall be filed with the Chairman of the Zoning Board of Appeals not less than three (3) weeks before such hearing date. Costs of taking such a transcript shall be paid by the requesting party. Any party desiring a transcript of the proceedings shall pay all transcription or copying costs.

108.17 PREPARATION OF FINDING OF FACT From the evidence presented to the Board during the administrative public hearing, the board shall prepare findings of fact responsive to the standards established by the code for the item under consideration and forward the Findings of Fact and any recommendation to the County Commissioners.

108.18 NOTIFICATION OF DECISION Copies of findings of fact and decisions or recommendations of the Board shall be served by mailing a copy thereof to all parties other than the County.

108.19 LEGISLATIVE PUBLIC HEARINGS. All legislative public hearing shall be regularly scheduled or properly called meetings of the Zoning Board of Appeals.

108.20 NOTICES. Legal notices of a legislative public hearing will follow the same procedure outlined in section 108.10 NOTICES.

#### 108.21 LEGISLATIVE PUBLIC HEARING

APPEARANCES Any person may appear and testify at a legislative public hearing, either in person or by duly authorized agent or attorney. Testimony shall be directly related to the subject of the appeal.

#### 108.22 OATHS OR AFFIRMATION FOR

LEGISLATIVE HEARING The Chairman, may administer oaths or affirmations.

#### 108.22 COMPELLING THE APPEARANCE OF WITNESSES FOR LEGISLATIVE HEARING

The Chairman may compel the attendance of witnesses by mailing to such persons a Notice compelling attendance, not less than five (5) days before the Public Hearing. Failure of a person to appear in response to such a Notice shall constitute a violation of this code.

108.23 LEGISLATIVE RECORD KEEPING Record keeping of a legislative public hearing will follow the same procedure outlined in section 108.15 RECORD KEEPING.

#### 108.24 PREPARATION OF

RECOMMENDATIONS Based on the evidence presented, the Board shall prepare a recommendation to the County Commissioners. The recommendation shall be consistent with the purpose and intent of the ordinance and responsive to any suggested guidelines established by this code for the matter under consideration.

#### 108.25 TRANSMITTAL OF RECOMMENDATIONS TO COUNTY

COMMISSIONERS A copy of the minutes and any reports or recommendations prepared by the Board after a legislative public hearing shall be filed with the County Commissioners prior to final action by the County Commissioners on item and shall become part of the public records of the County, provided however, the failure to file such minutes or report shall not invalidate any action of or by the County.

#### 108.26 INITIATION OF AMENDMENT

Amendments to the districts established hereby may be proposed by the County Commissioners, the Zoning Administrator at the direction of the County Commissioners, or by the owners of, or parties to a valid and enforceable purchase option contract applicable to the property proposed for rezoning. Amendments to the regulations imposed hereby, that is, zoning text amendments, may be proposed by the County Commissioners or by the Zoning Administrator at the direction of the County Commissioners.

#### 108.27 APPLICATION FOR AMENDMENT

All requests for zoning amendments other than those submitted by or at the direction of the County Commissioners shall henceforth only be accepted when filed on proper application forms submitted to the Zoning Administrator and upon payment of the required fee. When such applications are required, the information requested on them is deemed to be a minimum and applicants may be requested to supply additional information prior to the hearings on their requests. Such forms shall be filed in duplicate as prerequisite to the commencement of any such action on the part of Menard County. The Zoning Administrator shall, upon receipt of the properly completed applications for zoning amendments, forward a copy of the application to the Zoning Board of Appeals and Planning Commission.

108.28 DISTRICT AMENDMENTS In making its recommendation on zoning district amendments, the Zoning Board of Appeals and Planning Commission shall be guided by those purposes for which this Code was adopted and in making its recommendation may consider the following:

- 1) The suitability of the subject property for uses authorized by the existing zoning;
- 2) The length of time the property has remained vacant as zoned considered in the context of land development in the area;
- 3) The suitability of the subject property for uses authorized by the proposed zoning;
- 4) The existing land uses of nearby property;
- 5) Existing zoning of nearby property;
- 6) Relative gain or hardship to the public as contrasted and compared to the hardship or gain of the individual property owner resulting from the approval or denial of the zoning amendment application.
- 7) Consistency with the Comprehensive Plan.

The following guidelines, in addition to the above, are applicable to amendments involving specific zoning districts:

To or from the A-Agricultural District

- 1) The predominant soil type and/or productivity of the land

- 2) The shape and configuration of the parcel
- 3) The slope, grade and topography including the likelihood of erosion
- 4) The proximity to flood hazard boundary areas

To or from RR-Rural Residential

- 1) The predominant soil type and/or productivity of the land

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

- 1) The slope, grade and topography create the likelihood of erosion,
- 2) Site is unsuited for private sewage disposal
- 3) The site is subject to flood hazard

To or from R-1 Single Family Residence District:

- 1) Proximity to the corporate limits or a municipality
- 2) Proximity to public water
- 3) Proximity to public sanitary sewer
- 4) Configuration, topography, suitability of soil, and other factors that might influence or effect private sewage disposal systems

Proximity to property zoned or used for commercial, industrial, or public lands purposes

- 1) Proximity to public police, fire, rescue, library, school, and park facilities

To or from R-3 Multiple Family Residence District

- 1) Proximity to the corporate limits of a municipality
- 2) Proximity to public water
- 3) Proximity to public sanitary sewer
- 4) Proximity to police, fire, rescue, library, school, and park facilities
- 5) Proximity to convenient shopping

Proximity to commercial, industrial, or public lands uses

- 1) Adequacy of adjacent public streets to handle traffic reasonably expected from multiple family development

To or from B-1 Downtown Business District

- 1) Proximity to other downtown commercial zoning and/or land uses
- 2) Proximity to public parking
- 3) Adequacy of adjacent public streets for traffic reasonably expected to be generated from commercial use
- 4) Proximity to residential zoning and/or land uses

To or from B-2 Highway Business District

- 1) Size and configuration of the parcel and suitability of the parcel to provide on-site parking and all other reasonably expected accessory uses on site without impact on neighboring properties
- 2) Proximity to other highway business uses
- 3) Adequacy of adjacent public streets
- 4) Proximity to residential development

To or from M-1 Manufacturing District

- 1) Size and configuration of all parcels and suitability of the parcel to accommodate all required parking and other reasonably expected accessory uses on site without impact on neighboring properties
- 2) Proximity to public water and sanitary sewer
- 3) Adequacy of adjacent public streets
- 4) Prevailing wind direction
- 5) Proximity to residential development

To or from PL Public Lands District

- 1) Identity of the public body owning, using, or developing the property

- 2) Adequacy of adjacent public streets
- 3) Proximity to public water and/or sanitary sewer
- 4) Proximity to residential zoning or land uses

#### 108.29 DECISIONS BY THE COUNTY

COMMISSIONERS. The County Commissioners upon receiving the report and recommendation of the Zoning Board of Appeals and Planning Commission, as an exercise of the legislative discretion vested in the Board of Commissioners of Menard County, may grant or deny the requested text or district amendment.

108.30 PARTIES Both proponents and opponents to pending zoning matters should present evidence and make arguments in the established public hearing process in accordance with Rules of Procedure adopted by the Board and not outside that process. In case of a written protest against any proposed district (map) amendment that is either: (A) signed by the owner or owners of at least 20% of the land to be rezoned, or (B) signed by the owner or owners of land immediately touching, or immediately across a street, alley, or public right-of-way from at least 20% of the perimeter of the land to be rezoned, or in cases where the land affected lies within 1 ½ miles of the limits of a zoned municipality, or in the case of a proposed text amendment to the Zoning Ordinance, by resolution of the corporate authorities of the zoned municipality with corporate authorities of the zoned municipality with limits nearest adjacent, filed with the County Clerk, such amendment shall not be passed except by the favorable vote of two-thirds of the County Commissioners. In such cases, a copy of the written protest shall be served by the protestor or protestors on the applicant for the proposed amendment and a copy upon the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment.

108.31 RULES AND PROCEDURES The Zoning Board of Appeals, may adopt its own rules and procedures, not in conflict with this code.

## **SECTION 109 VIOLATIONS**

109.01 COMPLAINTS AND PENALTIES FOR VIOLATIONS In case any building or structure is constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Code, or any other violation of this code, any person may file a written

complaint with the Zoning Administrator stating fully the causes and basis thereof. After investigation and if satisfied that a violation in fact exists, the Zoning Administrator, with the assistance of the Menard County States Attorney, may institute any appropriate action of proceeding to:

- 1) Prevent the unlawful construction, reconstruction, alteration, repair, conversion, maintenance, or use;
- 2) Prevent the occupancy of the building, structure, or land;
- 3) Prevent any illegal act, conduct, business, or use in or about the premises;
- 4) Restrain, correct, or abate the violation;
- 5) Allege a violation of this Code and seek the imposition of the penalties provided herein.

109.02 PENALTIES Any person found guilty of violating, disobeying, omitting, neglecting, or resisting or opposing the investigation or enforcement of any of the provisions of this Code, upon conviction thereof shall be guilty of a petty offense and shall be punished by a fine of not less than one hundred (\$100.00) dollars nor more than five hundred (\$750.00) dollars. A separate and distinct offense shall be regarded as committed each day the violation remains uncorrected.

#### 109.03 ADMINISTRATIVE VIOLATION ENFORCEMENT.

##### 109.03.01 GENERAL PROVISIONS:

- 1) Any person may bring an action to enjoin the violation of this ordinance by suit filed in Menard County circuit court.
- 2) The Menard County Zoning Board of Appeals or the Menard County Zoning Administrator may require either:
  - a) the removal of a structure erected in violation of this ordinance; or
  - b) the removal of any use or condition created in violation of this ordinance.
- 3) A structure erected, raised, or connected, or real estate or premises used in violation of this ordinance or any regulation adopted thereunder, is hereby declared to be a common nuisance. The owner and/or possessor is then liable for maintaining a common nuisance.

- 4) Any owner and/or possessor of real estate who:
  - a) violates, or who permits a violation of any provision of this ordinance; or
  - b) who fails to comply with any requirements of this ordinance; or
  - c) who builds, reconstructs, or structurally alters a building or structure in violation of a detailed statement or plan for which an approval or grant is given under this ordinance shall be fined between **\$50** and **\$1500** for each determination of violation or failure to comply. Each day that the violation or failure to comply is permitted to exist will constitute a separate violation. In addition to the penalties provided herein, The Menard County Zoning Board of Appeals or the Menard County Zoning Administrator bringing this action may recover reasonable attorney's fees, court costs, and other expenses of litigation by appropriate suit at law against the owner and/or possessor of real estate found to have violated this ordinance or any orders or permits issued hereunder.
- 5) Any action permitted to be commenced under this section against any owner and/or possessor of real estate, may also be brought against the owner of any personal property who has furnished that property or permitted it to be placed on real estate in a manner which results in any violation of this ordinance.
- 6) No permit application or land use petition, other than one intended as a Corrective Action under Section 109.03.02 (2) of this Ordinance, may be submitted relative to any property which is the subject of an unresolved zoning violation.

#### 109.03.02 PROCEDURE:

#### **1) Notice of Zoning Violation**

- a) Upon determination of a zoning violation, a written Notice of Zoning Violation shall be delivered via certified mail to the Subject Property's legal owner(s) of record, as determined from the records of the County Assessor.
- b) The Notice of Zoning Violation shall:
  - 1) identify the location of the zoning violation;
  - 2) detail the specific nature of the violation;
  - 3) cite the section(s) of the Ordinance violated;

- 4) provide options for remedying the violation;
- 5) establish a date, not less than fifteen calendar days following the mailing of the violation notice, by which resolution of the violation must occur, and;
- 6) indicate the fines and penalties that may accrue if the violation remains unresolved.
- c) If the certified letter containing the Notice of Zoning Violation is returned undelivered, additional written notice shall be posted in a conspicuous location at the Subject Property. No further notification shall be required.

#### **2) Corrective Action**

Upon receipt of a Notice of Zoning Violation, the owner of the Subject Property must, not later than the deadline date established in the Notice of Zoning Violation:

- a) bring the property into compliance with the Ordinance; or
- b) file for a variance, special exception, rezoning, or other land use petition as necessary to resolve the violation; or
- c) file a formal appeal of the Notice of Zoning Violation with the Menard County Zoning Board of Appeals, which shall be docketed for the next available regularly scheduled hearing of the Menard County Zoning Board of Appeals; or
- d) propose, and have accepted by the Menard County Zoning Administrator, an extended timeline, or other alternative means of achieving compliance.

#### **3) Failure to Remedy and Ongoing Enforcement**

- a) If at least ninety (90) days have elapsed from the mailing of the Notice of Zoning Violation and the violation remains unresolved, the Zoning Administrator may record with the County Treasurer a statement enumerating all outstanding fees and fines related to the Notice of Ordinance Violation, as provided by 55 ILCS 5/5-1121. Said list shall include the name of the owner(s) of the parcel(s) of real property on which fees are delinquent; the legal description of the Subject Property as shown on the records of the County Assessor; and the amount of the delinquent fees.

- b) The list shall then be certified by the County Treasurer and recorded with the County Recorder.
- c) A lien shall then be placed on the property owner's tax record. The total amount shall be collected in the same manner as delinquent taxes are collected and shall be distributed to the general fund.
- d) If the violation is not corrected within thirty (30) days following the imposition of a lien as noted above, a lawsuit may be commenced by the designated enforcement entity in a court of general jurisdiction in Menard County, Illinois, as prescribed in this Ordinance, in 55 ILCS 5/5-1121, and by other applicable laws and ordinances.

**4) Repeat Violations**

If a zoning violation is substantially similar to a zoning violation that occurred on the same property, and under the same ownership, as a violation that occurred not more than five years prior, the 15- day grace period described in Section 109.03.02 (1)(b) of this Ordinance will be removed, and fines will begin the day the Notice of Zoning Violation is mailed.

**109.03.03 ZONING ORDINANCE CITATION**

**NOTIFICATION PROCESS.** For violations listed below in (a) and (b), the Zoning Administrator may choose to issue a citation notification as outlined in this Section, before taking further action under the General Provisions of this section. The purpose of this Section is to help protect the public health, safety, and general welfare of the community by allowing an alternative process to correct violations of this ordinance.

- A. Land use violations that are subject to the citation notification process include:
  - 1. Junk yards
  - 2. Child Care Home Child Care Center
  - 3. Home Businesses (not legal Home Occupations) such as but not limited to:
    - a) Lawn care
    - b) Vehicle repair
    - c) Building contractor
    - d) Small engine repair
  - 4. Billboard/outdoor advertising sign
  - 5. Transient guest house
  - 6. Agricultural rental hall
  - 7. Boarding kennel
  - 8. Breeding kennel
  - 9. Construction/demolition disposal site

- 10. Buildings in Floodplain zones
- 11. Amusement and recreation(outdoor)

**B. Development standard violations that are subject to the citation notification process include:**

- 1) Electronic signs/changeable copy signs changing more frequently than once per minute On-premise signage
- 2) Fill in the Flood Plain
- 3) Signs in public right-of-way home occupation limitations Clear vision triangle
- 4) Fences
- 5) Setbacks for porches, decks, and accessory buildings Event oriented signs

In the event of a violation under (A) or (B), the Zoning Administrator may issue a citation notification, either in person or by certified letter, to the owner and/or possessor who violates, or who permits a violation of any provision of this ordinance. The person shall then have 15 days from the date of notice to contact the Zoning Administrator and remedy the violation. If the violation is not corrected, or if no response is made within 15 days, the Zoning Administrator may issue notice of a fine in an amount not to exceed \$250. If the violation is not corrected and no response is made to the Zoning Administrator after 30 days, a second notice of fine may be issued in double the amount of the first fine. If the violation is not corrected and no response is made to the Administrative Officer after 45 days, a fine in triple the amount of the first fine may be issued, and the Zoning Administrator may take further action under the General provisions of this article. Nothing in this Section shall preclude or limit the Zoning Board of Appeals or the Zoning Administrator from seeking any remedy under the General provisions of this article.

## **SECTION 110 PERMITS AND APPROVALS**

**110.01 PERMITTING** The issuance of a zoning permit by the Zoning Administrator is a pre-requisite to lawful development.

- 1) The issuance of an occupancy permit by the Zoning Administrator is a pre-requisite to the lawful use or occupancy of property.
- 2) No structure, mobile home, manufactured home, modular home, portable building, pole barn, garage, carport, shed, container

shall be constructed, moved or placed upon any lot, tract or parcel of land until a building permit has been obtained as provided for in this Ordinance.

- 3) No new permitting shall be required by the adoption of the code for the continuation of existing uses.
- 4) Permitting for land and buildings devoted to agricultural purposes shall be limited to determination of principal use and building and setback compliance.
- 5) No permits shall be required for fences when the principal use of a property is a farm and devoted to agricultural purposes.

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

110.03 APPLICATION FOR ZONING PERMIT An application for a zoning permit shall be initiated by

- 1) Property is appropriately zoned for the proposed use;
- 2) That any required special use permit or variation has been obtained;
- 3) That the proposed use conforms with all required bulk regulations;
- 4) That the proposed use complies with any conditions imposed by any approved special use permit, variation, or site plan;
- 5) That the proposed use is otherwise in compliance with this code;
- 6) Receipt of appropriate Health Department and appropriate road district or highway official signoff.

Occupancy permits shall be granted if the following standards are met and denied if one or more are not met:

- 1) That the use was built in conformance with the approved zoning permit;
- 2) That the use as built complies with the requirements of this code.

filing in duplicate a written permit application in the form required by the Zoning Administrator and the payment of the required fee. Upon receipt of a completed application and payment of the required fee, the Zoning Administrator shall process the request for a zoning permit.

110.04 OCCUPANCY PERMIT An application for an occupancy permit shall be initiated by filing with the Zoning Administrator in duplicate a Certificate of Completion and Conformance and the payment of the required fee. Upon submission of an application for an occupancy permit and the payment of the required fee, the Zoning Administrator shall process the application for an occupancy permit.

110.05 STANDARDS IN GRANTING OR DENYING PERMITS. The Zoning Administrator shall grant a zoning permit if the following standards are met and shall deny the permit if they are not:

110.06 DENIAL Permit applications not acted upon within 90 days from the date of their submission shall be deemed denied.

110.07 APPEALS Decisions by the Zoning Administrator in granting or denying permits are subject to appeal under the provisions of this Ordinance.

110.08 EXPIRATION Zoning Permits will expire 180 days after issuance unless work has progressed and is being pursued with diligence. A request for an occupancy permit must be made within one year from the issuance of a zoning permit. If not, the zoning permit expires.

110.09 PERMITTING AFTER CONSTRUCTION Permit applications received after construction has begun or has been completed will be charged double the original permitting fee and any additional fees or fines as is deemed necessary by the Zoning Administrator.

## **SECTION III FEES**

111.01 FEES. A fee for services shall be charged. Fees shall be set by the jurisdiction and schedules shall be available at the office of the Zoning Administrator.

## DEFINITIONS

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### User note:

*About this chapter:* Codes, by their very nature, are technical documents. Every word, term, and punctuation mark can add to or change the meaning of a technical requirement. It is necessary to maintain a consensus on the specific meaning of each term contained in the code. Chapter 2 performs this function by stating clearly what specific terms mean for the purpose of the code.

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### SECTION 201—GENERAL

**201.01 SCOPE** In the construction of this amended ordinance, the rules and definitions contained in this section shall be observed and applied except when the context clearly indicates otherwise.

**201.02 INTERCHANGIBILITY** Words used in the present tense shall include the future; and words used in the singular number shall include the plural number, and the plural, the singular.

The word "shall" is mandatory and not discretionary. The word "may" is permissive.

The word "lot" shall include the words "plot, piece, and parcel"; the word "building" includes all other structures of every kind regardless of similarity to buildings; and the phrase "used for" shall include the phrase "arranged for, designed for, intended for", maintained for, and occupied for".

The following words and terms, wherever they occur in this amended ordinance shall be interpreted as herein defined.

**201.03 TERMS NOT DEFINED** Words and terms not defined shall have the meanings indicated by common dictionary definition.

### SECTION 202—GENERAL DEFINITIONS

**ABANDONED VEHICLE.** Any motor vehicle or other vehicle in a state of disrepair, rendering the vehicle incapable of being driven in its condition; or any motor vehicle or other vehicle that has not been moved or used for seven consecutive days or more and is apparently deserted. However, Abandoned Vehicles shall not include a motor vehicle that is kept within a building when not in use or vehicles on the premises of a place of business lawfully engaged in repair, wrecking or junking of motor vehicles.

**ACCESSORY BUILDINGS OR USE.** An "accessory building or use" is one which:

1. Is subordinate to the principal building or principal use served in terms of area and function; and
2. Contributes to the comfort, convenience, or necessity of occupants of the principal use served. In cases of recreational vehicle parks and campgrounds, accessory buildings or accessory structures are those buildings which house facilities or services relating to recreational uses at the park or campground.

**ACCESS:** A way or means of approach to provide physical entrance to a property.

**ACCESS PRIVATE LANE:** an un-named residential access for one Tract that is 20 ft. in width and has not been dedicated to the public, constructed in a manner typical of a gravel driveway, but may be further improved as desired.

**ACCESS SHARED-PRIVATE LANE:** an un-named residential access for the benefit of two Tracts that has not been dedicated to the public, constructed in a manner typical of a gravel driveway, but may be further improved as desired. Each tract must have 20 ft. direct abutment to a public or private road or street.

**PRIVATE ROAD OR STREET:** a named residential access 60 ft. in width, with the required turn around, if necessary, that has not been dedicated to the public, constructed in a manner typical of a gravel driveway, but may be further improved as desired. Must have a Road Maintenance agreement recorded during the subdivision process.

**ACCESSORY:** as applied to a building, structure, or use, one which is on the same lot with, incidental to and subordinate to the main or principal structure or use and which is used for purposes customarily incidental to the main or principal structure, or the main or principal use.

**ACCOMMODATION/LODGING:**

An area or structure designed to provide accommodation to the traveling or recreational public which includes bed & breakfast, hotel, motel, resort or tourist establishment, a rental cottage, cabin, campground, park, trailer site, or other similar structures.

**ACRE:** 43,560 square feet.

**ACREAGE.** Any tract or parcel of land having an area of one acre or more which has not been subdivided by metes and bounds or platted.

**ACTIVE RECREATION OPEN SPACE.** An appropriately-sized and usable open space area, a minimum of one hundred twenty-five (125) feet wide, capable of comfortably supporting one or more active recreational activities such as playgrounds, ball fields, tennis courts, swimming pools, recreation buildings, jogging trails/fitness courses, detention basins designed for recreational use, and other miscellaneous recreational activities.

**ACTIVE SOLAR ENERGY SYSTEM.** A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

**ADJOINING LOT OR PARCEL:** A lot or parcel of land which shares all or part of a common lot line with another lot or parcel of land and which is not separated by a publicly dedicated right-of-way.

**ADULT BOOK STORE.** An establishment having most of its public physical floor space occupied by books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas."

**ADULT ENTERTAINMENT FACILITY.** A facility or adult use whose primary business is the commercial sale, dissemination, or distribution of sexuality explicit material, shows, or other exhibitions such as adult bookstores, adult video stores, striptease clubs or gentlemen's clubs, adult motion picture or adult mini motion picture theatre, or any other use as defined in 55 ILCS 5/5-1097.5. It shall include any facility or adult use which offers or provides activities by employees, agents, or contractors of the business that involve exposure of specified anatomical areas or performance of specified sexual activities, as

defined in 55 ILCS 5/5-1097.7, in view of any patron, client, or customer of the business.

**ADULT MASSAGE PARLOR or SPA.** Any place or establishment where a massage is made available for the primary purpose of sexual stimulation or arousal. It shall include activities by employees, agents, or contractors of the business that involve exposure of specified anatomical areas or performance of specified sexual activities, as defined in 55 ILCS 5/5-1097.7, in view of any patron, client, or customer of the business.

**ADULT MOTION PICTURE THEATERS.** An enclosed building with a capacity of 50 or more persons having viewing devices used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas", for observation by patrons therein.

**ADULT USE.** A use which involves either wholly or partially an activity distinguished or characterized by its emphasis on matters depicting, describing, relating to specified sexual activities on specified anatomical areas, including but not limited to the operation of adult bookstores, adult video theaters, adult entertainment facilities, video arcades, and adult massage parlors or spas.

**ADULT-USE CANNABIS BUSINESS ESTABLISHMENT.** An adult-use cannabis cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization.

**ADULT-USE CANNABIS CRAFT GROWER.** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Cannabis Regulation and Tax Act, as it may be amended from time-to-time, and regulations promulgated thereunder.

**ADULT-USE CANNABIS CULTIVATION CENTER.** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Cannabis Regulation

and Tax Act, as it may be amended from time-to-time, and regulations promulgated thereunder.

#### **ADULT-USE CANNABIS DISPENSING**

**ORGANIZATION.** A facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia, or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers, per the Cannabis Regulation and Tax Act, as it may be amended from time-to-time, and regulations promulgated thereunder.

#### **ADULT-USE CANNABIS INFUSER**

**ORGANIZATION OR INFUSER.** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act, as it may be amended from time-to-time, and regulations promulgated thereunder.

#### **ADULT-USE CANNABIS PROCESSING**

**ORGANIZATION OR PROCESSOR.** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act, as it may be amended from time-to-time, and regulations promulgated thereunder.

#### **ADULT-USE CANNABIS TRANSPORTING**

**ORGANIZATION OR TRANSPORTER.** An organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program, per the Cannabis Regulation and Tax Act, as it may be amended from time-to-time, and regulations promulgated thereunder.

#### **AGENCY LICENSED FAMILY RESIDENTIAL CARE HOME - TRANSITIONAL.**

A single housekeeping unit of three (3) or fewer persons receiving care in a family-like atmosphere where the residents are residing in the home on a transitional or

temporary basis where the length of residency is not expected to be more than one (1) year. Oversight and supervisory personnel shall be on the premises in addition to this number.

#### **AGENCY LICENSED GROUP RESIDENTIAL CARE HOME - PERMANENT.**

A single housekeeping unit of four (4) or more persons receiving care in a family-like atmosphere. Oversight and supervisory personnel shall be on the premises in addition to this number.

**AGRICULTURE.** Agriculture includes the growing of farm crops, truck garden crops, animal and poultry husbandry, apiculture, aquiculture, dairying, floriculture, horticulture, nurseries, tree farms, sod farms, pasturage, viticulture, wholesale greenhouses, and the growing, developing, processing, conditioning, or selling of hybrid seed corn, seed beans, seed oats, or other farm seeds. Cultivating the ground, including the harvesting of crops, and rearing and management of livestock: tillage; husbandry; farming. In a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent, the preparation of these products for man's use. It includes grain storage, horse stables, nurseries, animal feed, commercial feeding, dairy and the like.

In interpreting the foregoing definition, it is the intent of this Ordinance to make the definition of agriculture as used herein identical to the definition of agriculture used in 55 ILCS 5/5-12001, as amended from time to time, exempting agriculture from the zoning authority of the County Board.

**AGRICULTURAL LABOR HOUSING.** One or more buildings, structures, tents, trailers, or vehicles or any combination thereof together with the land appertaining thereto established, operated, or maintained as living quarters for migrant workers or families containing migrant workers who are engaged in agricultural activities.

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

**AGRICULTURALLY-RELATED BUSINESS:** A business activity related to agriculture that includes but is not limited to: anhydrous ammonia facilities;

fertilizer production, sales, storage, mixing and distribution; grain drying and storage, grain elevators, agricultural production and distribution of agricultural products, repair and sale of farm implements, and sale of feed or sod.

**AGRICULTURE RELATED SERVICES:**

The use of land, building or structures for the purposes of buying or selling commodities and services that support agriculture uses as defined in this ordinance. These shall include such sales and services as welding and machinery repairs, farm drainage and excavation, well drilling, contracting and trades related to farm buildings and structures, and custom spray, tillage, planting, harvesting services or other similar services or activities.

**AGRITOURISM.** Any agricultural related activity consistent with a working farm, livestock or poultry operation, horticultural operation, ranch, or working forest (herein referred to as “farm”) that allows members of the general public to view or participate in for recreational, educational, or entertainment purposes. Such activity shall not be permitted on a parcel less than 5 acres. Such activities may generate income for the farm and may include, but may not be limited to, farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and natural attractions. Any activity not related to accessory uses to the primary farm operation does not qualify as agritourism. An activity is an agritourism activity whether or not the participant paid to participate in the activity. In no instance shall agritourism activities be interpreted as including camping, ATV or Dirt bike facilities, 4-wheeler or “Jeep”, archery or gun clubs, or any other facilities that make commercial use of rural property that is unrelated to on-site agricultural production.

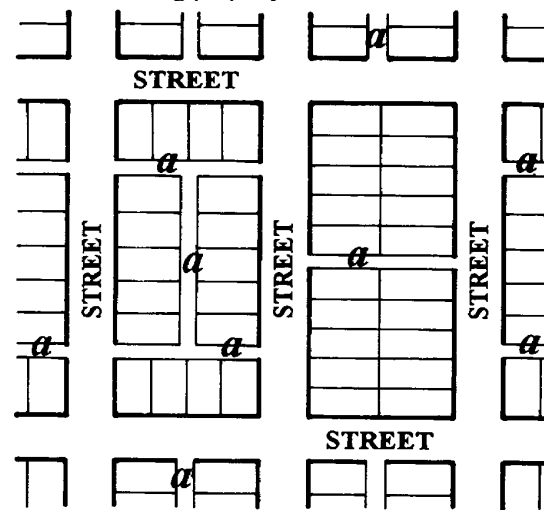
**AIRCRAFT.** Any equipment or object, now known or hereafter invented, for use or designed and built for navigation of or flight in the air.

**AIRPORT.** Any area of land, water, or both, which is designed for the landing and takeoff of aircraft, whether facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights-of-way.

**AIRPORT OR AIRCRAFT LANDING FIELD.** Any landing area, runway, or other facility (including heliports), designed, used, or intended to be used either publicly or privately by any person or persons for the landing or taking off aircraft, including all

necessary taxiways, aircraft storage and tie down areas, hangers, and other necessary buildings and open spaces.

**ALLEY.** A public way, not more than thirty feet wide, which affords only a secondary means of access to abutting property.



*Alley (a)*

**AMENDMENT, ZONING:** A change of the zoning district that is applied to a lot or parcel of land or change in the text of this Ordinance.

**ANIMALS, EXOTIC:** Animals not indigenous to this country.

**ANIMALS, FARM:** The species of fowl, ovine, caprine, bovine, porcine, and equine that have been domesticated for agricultural purposes.

**ANIMAL HOSPITAL.** Any building or portion thereof designed or used for the care, observation, or treatment of domestic animals.

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

**AREA, LOT:** The total area within the lot lines.

**ASHES.** Shall mean the residue resulting from the burning of wood, coal, coke, or other combustible materials.

**AUTOMOBILE REPAIR, MAJOR.** Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailer; collision service including body, frame or fender straightening, or repair and painting of vehicles.

**AUTOMOBILE WRECKING YARD.** Any place where two or more vehicles, not in running condition, or parts thereof, are stored in the open and are not being restored to operation on any land, building, or structure used for wrecking or storing of such motor vehicles or parts thereof, and including the commercial salvaging of any goods, articles, or merchandise.

**AWNING.** A roof like cover, temporary in nature, which projects from the wall of a building or overhangs the public way.

**AWNING SIGN:** Any sign that is painted, printed, or otherwise placed on the outer surface of an awning in such a manner that the awning forms the background surface of the sign.

**BACKFILL:** Materials used to refill a ditch or other excavation, or the process of doing so.

**BANNER SIGN:** Any Temporary Sign of lightweight fabric or similar material. Examples include signs attached to a pole, building, or fence, and secured on at least two sides. National flags, state or municipal flags shall not be considered banners.

**BANQUET HALL.** An establishment that is rented by individuals or groups to accommodate private (invitation only) functions including, but not limited to banquets, weddings, anniversaries, and other similar events. Such a use may include kitchen facilities for preparation of food to be consumed on the premises, and outdoor gardens or reception facilities.

**BASE FLOOD.** The flood having a one percent chance of being equaled or exceeded in any given year. The base flood is also known as the one hundred (100) year flood.

**BASE FLOOD ELEVATION.** The elevation in relation to Mean Sea Level of the crest of the base flood.

**BASEMENT.** A story partly or wholly underground. Where more than one-half of its height is above the established curb level or above the average level of the adjoining ground where the curb level has not been established, a basement shall be counted as a

story for the purposes of height measurement.

**BATTERY ENERGY STORAGE SYSTEM -** “Battery Energy Storage System” or “BESS” means a system that stores energy from different sources using rechargeable batteries for later use. BESSs are often combined with renewable energy sources like solar and wind to accumulate energy during off-peak hours and release it when needed during peak demand or power outages.

**BED AND BREAKFAST ESTABLISHMENTS -** An operator-occupied residence providing accommodations for a charge to the public with no more than five (5) guest rooms for rent, in operation for more than ten (10) nights in a twelve (12) month period. Breakfast may be provided to the guests only. Bed and breakfast establishments shall not include motels, hotels, boarding houses, or food service establishments. Bed and bed breakfast establishments shall meet the criteria set forth in the Illinois Bed and Breakfast Act (50 ILCS 820/).

**BILLBOARD.** Any structure or portion thereof upon which are signs or advertisements used as an outdoor display. This definition does not include any bulletin boards used to announce church services, or to display court or other public office notices, or signs offering the sale or lease of the premises on which the sign is located.

**BLOCK.** A tract of land bounded by a street or, in lieu of a street or streets, by public parks, cemeteries, railroad right-of-way, bulkhead lines or shorelines of waterways or corporate boundary lines or municipalities.

**BOARDING HOUSE.** A building other than a hotel or restaurant where meals are provided for compensation to four or more persons, but not more than twelve, who are not members of the keeper's family.

**BOOK AND STATIONARY STORE.** An establishment dealing in books, printed materials and stationary supplies which is not an Adult Book Store.

**BREW PUB.** A person, including a restaurant or brewery, who manufactures no more than one hundred fifty-five thousand (155,000) gallons of beer per year only at a designated licensed premises to make sales to importing distributors, distributors, and to non-licensees for use and consumption only, who stores beer at the designated premises, and who is allowed to sell at retail from the licensed premises,

provided that a brew pub licensee shall not sell for off-premises consumption more than one hundred fifty-five (thousand) 155,000 gallons per year. (235 ILCS 5/1-3.33).

**BUILDABLE ACREAGE.** The total acreage of the property minus the following:

1. Wetlands and land that is generally inundated by water (under ponds, lakes, creeks, etc.)
2. All the floodway and floodway fringe within the 100-year floodplain, as shown on official FEMA maps unless a study has been done and a LOMAR has been issued prior to development of the site indicating that the existing base flood elevation is less than the area depicted on the official FEMA maps.
3. Land within the right-of-way or easement of an existing roadway,
4. Land within an existing permanent easement prohibiting development (including utilities, drainage, access, and pipelines).
5. Land with slopes exceeding 25%, or soils and subsurface geology subject to slumping shall also be subtracted from the total acreage when determining a properties buildable acreage. However, homes may still be constructed on such slopes to take advantage of unique views or to provide walk-out units if appropriate engineering procedures are followed to maintain stability of the structure and minimize erosion.

**BUILDABLE AREA.** The space remaining of a building lot after the minimum yard requirements of this Ordinance have been complied with.

**BUILDING.** Any structure with substantial walls and roof securely affixed to the land and entirely separated on all sides from any other structure by space or by walls in which there are no communicating doors, windows, or openings; and which is designed or intended for the shelter, enclosure, or protection of persons, animals, or chattels. Any structure with interior areas not normally accessible for human use, such as gas holders, oil tanks, water tanks, grain elevators, coal bunkers, oil cracking towers and other similar structures are not considered as buildings.

**BUILDING, COMPLETELY ENCLOSED.** A building separated on all sides from the adjacent open space, or from other structures, by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.

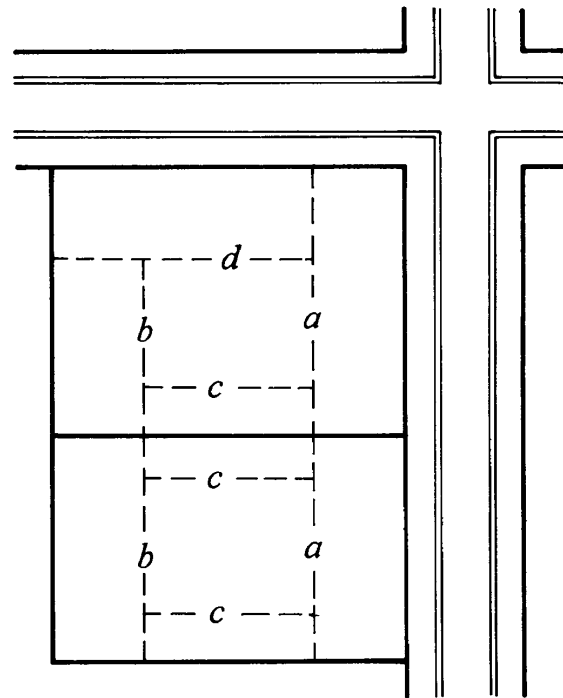
**BUILDING, DETACHED.** A building surrounded by open space on the same zoning lot.

**BUILDING HEIGHT.** The vertical distance measured at the front building elevation to the highest point of the structure, including the roof.

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

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

**BUILDING SETBACK LINE.** A line parallel to the



### ***Building Lines (Setbacks)***

*Where a = Front Building Line  
b = Rear Building Line  
c = Side Building Line  
d = Corner Side Building Line*

street line at a distance from it, regulated by the front yard requirements set up in this Ordinance.

**BUILDING, TEMPORARY.** Any building not designed to be permanently located in the place

where it is, or where it is intended to be placed or affixed.

**BUILDING-INTEGRATED SOLAR ENERGY SYSTEMS.** An active solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

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

**BULK WASTE.** In-operative appliances, including but not limited to: washer, dryer, refrigerator, freezer, stove, television, water heater; or indoor furniture, including, but not limited to: bed springs, mattresses, carpet, couch, chairs, cushions, or other items exposed to the elements not designed for exterior use.

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

**BUSINESS OR TRADE SCHOOL.** A school or teaching unit organized by an industry or large company to provide trade training, apprentice education, and similar courses.

**CAMPER.** Any person or persons occupying a recreational vehicle and/or tent for recreational purposes.

**CAMPGROUND.** Where two or more campsites are located, established, or maintained for occupancy by camping units of the public as temporary living quarters for recreation, education, and vacation purposes.

**CAMPGROUND AND RECREATIONAL VEHICLE PARK COLLECTOR STREETS OR COLLECTOR ROADS.** Any park street which extends from a park entrance street and intersects with three or more other streets or any street which intersects with five or more streets or any street

which extends for more than one thousand two hundred feet (1200') feet.

**CAMPGROUND AND RECREATIONAL VEHICLE PARK MINOR STREETS.** Any park street which is not a collector street.

**CAMPGROUND AND RECREATIONAL VEHICLE PARK SANITARY STATION.** Facility used for removing and disposing of wastes from RV holding tanks.

**CAMPGROUND AND RECREATION VEHICLE PARK SERVICE BUILDINGS.** Those required in all parks or campground, including those which house sanitary facilities, shelters.

**CAMPING UNIT:** Any tent, trailer, cabin, lean-to, recreational vehicle, or similar structure constructed, erected, or maintained or operated in a campground as temporary living quarters for recreation, education, or vacation purposes.

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

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

**CEMETERY:** A parcel of land, buildings, and/or structures used for the interring of human remains.

**CANOPY.** A rooflike structure of a permanent nature which projects from the wall of a building or overhangs the public way and is designed and intended to protect pedestrians from adverse weather conditions.

**CARETAKER.** A person who oversees the maintenance of a building, estate, etc.; superintendent.

**CHANGEABLE COPY SIGN:** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged either manually or electronically.

**CHRONIC NUISANCE PROPERTY.** Any property upon which two (2) or more nuisance

activities or conditions, as defined in this Ordinance, have occurred during any three (3) year period may be deemed a Chronic Nuisance Property. Such chronic nuisance property status shall result either from (i) two (2) or more distinct types of nuisance conditions or activities on such property, even if arising from the same factual circumstances or investigation; or (ii) two (2) or more separate factual events that have been separately investigated by an enforcement officer involving the same nuisance condition or activity, or (iii) a combination of two (2) or more conditions, activities, or events as described in (i) and (ii).

**CHURCH:** A building and/or structure wherein persons regularly assemble for religious worship which is used only for such purposes and activities that are customarily associated therewith. Accessory uses may include: rectory, parsonage, Sunday School, Christian education.

**CLINIC OR MEDICAL HEALTH CENTER.** An establishment where patients are admitted for special study and treatment by two or more licensed physicians or dentists and their professional associates, practicing medicine together.

**CLUB OR LODGE.** A non-profit association of persons, who are bona fide members paying annual dues, which owns, hires, or leases a building, or portion thereof, the use of such premises being restricted to members, their guests, and invitees. It shall be permissible to serve food and meals on such premises provided that adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guest shall be allowed in conjunction with the operation of a dining room for the purpose of serving food and meals, though such beverages may be served in a separate room or rooms, and provided that such sale of alcoholic beverages follows the applicable, local, Federal, and State laws, and County Ordinances.

**COMMERCIAL:** Any use having financial profit as an objective.

**COMMERCIAL EQUIPMENT:** Any machinery, materials, tools, fuels typically used or sold in conjunction with a business.

**COMMERCIAL MESSAGE:** Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

**COMMERCIAL RETAIL ESTABLISHMENT:** A building, property, or activity the principal use or purpose of which is the sale of goods, products, or materials directly to the consumer. This includes, but is not limited to, clothing stores, grocers, caterers, pharmacies, book stores, florists, furniture stores, hardware stores, pet stores, toy stores, and variety stores but does not include restaurants or personal service establishment.

**COMMERCIAL SOLAR ENERGY FACILITY.** Shall have the same meaning as defined in 55 ILCS 5/5-12

**COMMERCIAL WIND ENERGY FACILITY.** Shall have the same meaning as defined in 55 ILCS 5/5-12

**COMMERCIAL VEHICLE:** Vehicles associated with the specialized commercial use which includes but is not limited to, loaders, forklifts, tow trucks, truck trailers (semis), wreckers, back hoes, dump trucks, flatbed trucks and construction equipment and the trailers that haul these vehicles.

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

**COMMON OPEN SPACE.** Common open space refers to the land within a Planned Development that is devoid of buildings and other structures, other than recreational and pedestrian facilities and uses accessory thereto, and is suitable for active and passive recreational activities. For purposes of this ordinance, common open space must be a minimum of 50' wide. Common open space may include underground drainage fields for community septic systems or back-up areas for individual septic systems, and for "spray fields" for spray irrigation purposes in a "land treatment" sewage disposal system. Common open space specifically excludes parking lots for non-recreational uses, street rights-of-way, subdivided residential lots, school sites, "mound" sewage disposal systems protruding above grade and aerated sewage treatment ponds. Common Open Space is further divided into two categories as follows:

1. Primary Open Space consists of wetlands and land within the 100-year flood plain.
2. Secondary Open Space includes otherwise developable areas of a property which are being preserved for passive or active open space use. Wet bottom detention areas may be included as a part of secondary open space.

**COMMUNICATIONS FACILITY:** Any combination of buildings, equipment, and/or improvements including but not limited to; (1) one or more broadcast antennas, (2) any supporting structure and the hardware by which antennas are attached; (3) equipment housing; and (4) supplementary equipment such as signal transmission cables and miscellaneous hardware.

**COMMUNICATIONS USE.** Radio, television, and satellite communications facilities (including towers, cable, telephone, telegraph, and maintenance equipment accessory thereto), layout and design of newsprint, and general office activities accessory to these uses.

**COMMUNITY CENTER:** A building used for recreational, social, educational, and cultural activities, usually owned, and operated by a public non-profit group or agency.

**COMPREHENSIVE PLAN (GENERAL PLAN, CITY PLAN, MASTER PLAN):** The adopted plan of Menard County and the adopted plans by any other local unit of government regarding the long-term development of that jurisdiction.

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

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

**CONFORMING BUILDING OR STRUCTURE.** A conforming building or structure is any building or structure which complies with all the regulations of this zoning code or of any amendment hereto governing bulk for the zoning district in which such building or structure is located.

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

**CONSTRUCTION SIGN:** A sign announcing the impending construction of a project, limited to displaying the name of the project, the developer, the financial institution providing the finance, the designer(s), the general contractor, a phone number

where more information may be obtained, and a date announcing the planned completion of the project.

**CONVENIENCE STORE.** A retail store with a floor area of less than 5,000 square feet that sells a limited line of groceries, tobacco, newspapers and periodicals, and other household goods.

**CORNER LOT.** See "Lot, Corner".

**CORNER LOT, REVERSED.** See "Lot, Reversed Corner".

**CORRECTIONAL FACILITIES.** A prison, or is a place in which people are physically confined and, usually, deprived of a range of personal freedoms.

**COUNTY:** Menard County, Illinois.

**COUNTY BOARD:** The County Board of Menard County, Illinois.

**COUNTY CLERK:** The Clerk of Menard County, Illinois.

**COUNTY HIGHWAY ENGINEER:** The appointed head of the Menard County Highway Department.

**COUNTY RECORDER:** The Recorder of Deeds of Menard County, Illinois.

**COUNTY, UNINCORPORATED LANDS:** All land within the County boundaries, but not located within a municipality or village.

**COVERAGE, LOT.** See "Lot Coverage".

**CROP IDENTIFICATION SIGNS:** A sign whose content includes the type, description, identification, and otherwise pertinent information of crops being grown on a plot of land.

**CURB LEVEL.** The level of the established curb in front of the building measured at the center of such front. Where a building faces on more than one street, the mean level of the land immediately adjacent to the building shall be considered the "curb level".

**CURRENCY EXCHANGE.** Trading US or other countries money for another based on the value of the money. May provide other services such as notaries, money orders, etc.

**DATA CENTER** - “Data Center” means a centralized repository for the storage, management, processing, conversion, and dissemination of data and information which may also house equipment that supports communications network infrastructure without being part of the physical network. A Data Center may house equipment that includes, but is not limited to, computers, servers, data storage devices, and related equipment. A Data Center may include, but shall not be limited to, accessory uses that include offices for Data Center staff and accessory structures that include water storage tanks, cooling towers, network systems, fuel storage tanks, guardhouses and security offices, storage, chillers, electrical transformers, and engine generators. Accessory uses shall not include retail sales, telephone call centers, or customer service operations. Typical uses include data processing centers and server farms.

**DATA CENTER PROJECT AREA** - “Data Center Project Area” means the entire parcel or parcels of land on which a Data Center will be constructed and operated.

**DAY CARE FACILITY.** Facilities that provide supervision and care of more than three (3) children unrelated to the operator of the facility for less than 24 hours per day. This definition shall include Day Care Centers and Day Care Homes as defined and regulated under the Illinois Child Care Act (225 ILCS 10).

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

**DENSITY:** The permitted number of dwelling units per gross acre of land to be developed.

**DERELICT VEHICLE.** Any inoperable, unregistered, discharged motor vehicle, regardless of title, have lost its character as a substantial property and left unattended without justification on the owner's land.

**DEVELOPMENT.** Any man-made change to improved or unimproved real estate, including but not limited to construction of or substantial improvements to buildings or other structures, the placement of mobile homes, mining, dredging, filling, grading, paving, excavation, or drilling operations.

**DISTRICT.** A section or part of the County for which the use regulations are uniform.

**DRIVEWAY:** Any surface providing direct ingress to and egress from a parking space, garage, dwelling or other structure.

**DWELLING.** A building or portion thereof, but not including a house trailer or mobile home, designed, or used exclusively for residential occupancy, including one family dwelling units, two-family dwelling units, and multiple family dwelling units, but not including hotels, motels, boarding, or lodging houses.

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

**DWELLING UNIT, SECONDARY.** A secondary residence on a single lot that contains one or more rooms which are arranged, designed, used, or intended for use by one family, for living or sleeping purposes, and which includes complete kitchen facilities permanently installed.

**DWELLING, ONE-FAMILY.** A dwelling unit designed exclusively for use and occupancy by one family.

**DWELLING, TWO-FAMILY.** A building designed or altered to provide dwelling units for occupancy by two families.

**DWELLING, MULTIPLE-FAMILY.** A building or portion thereof, designed or altered for occupancy by three or more families living independently of each other.

**DWELLING, ATTACHED.** A dwelling joined to two other dwellings by party walls, or vertical cavity walls, and above ground physically unifying horizontal structural elements.

**DWELLING, DETACHED.** A dwelling which is surrounded by open space on the same lot.

**DWELLING, SEMI-DETACHED.** A dwelling joined to one other dwelling by party wall, or vertical cavity wall and above-ground physically unifying horizontal structural elements.

**EASEMENT:** A grant of one or more of the property rights by the owner to, or for the use by, the public, corporation, or another person or entity.

**ECHO HOUSING.** Elderly Cottage Housing Opportunities (ECHO Housing) is the provision of independent living quarters for elderly or disabled family members inside or within five hundred (500) feet of a Farm Residence in an agricultural area.

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

**ELECTRONIC MESSAGE BOARD DISPLAY:**

A sign or component of a sign that uses changing lights to form a message or series of messages that are electronically programmed or modified by electronic processes.

**ERECT.** The act of placing or affixing a component of a structure upon the ground or upon another such component.

**ESTABLISHMENT, BUSINESS.** A separate place of business having the following three characteristics:

1. The ownership and management of all operations conducted within such establishment is separate and distinct from the ownership and management of operations conducted within other establishments on the same or adjacent zoning lots.
2. Direct public access to such "business establishment" is separate and distinct from direct access to any other "business establishment".
3. There is no direct public access from within such establishment to any other such establishment. When adjacent places of business lack any one of the aforesaid characteristics with respect to one another, they shall then be considered as a single "business establishment" for the purpose of this Ordinance.

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

**EXCAVATING BUSINESS.** A business engaged in site preparation activities including grading, earthmoving, and land clearing and businesses that rent equipment for such purposes. For the purposes of this Ordinance, an excavating business shall be considered a contractors' office or shop.

**EXEMPT ORGANIZATIONS:** Organizations which are exempt from this Ordinance per the Illinois Compiled Statutes, including State, Federal or local units of government.

**EXTERIOR STORAGE:** Means storage which occurs outside of a building.

**EXTERMINATION:** Shall mean the control and elimination of insects, rodents, or other pests by eliminating their harborage places and removing or making inaccessible materials which may serve as their food, by poisoning, spraying, trapping or by any other recognized and legal method of pest control.

**EXTERNAL ILLUMINATION:** Illumination of a sign which is produced by an artificial source of light which is not contained within the sign itself.

**FACADE:** Any side, surface, or wall below the roof of a building which is parallel or within forty-five (45) degrees of parallel with a parcel's frontage on a public thoroughfare, which faces toward and relates to that public thoroughfare. If a building has a complex shape, then all walls or surfaces facing in the same direction, or nearly the same direction, are part of a single facade.

**FACILITY OWNER.** For the purposes of commercial solar energy facilities and commercial wind energy facilities, a facility owner shall have the same meaning defined in 55 ILCS 5/5-12.

**FAMILY.** Two or more persons related to each other by blood, marriage, or legal adoption, living together as a single housekeeping unit; or not more than three persons, who need not be related by blood, marriage, or legal adoption living together as a single housekeeping unit and occupying a single dwelling unit; in either case, exclusive of usual domestic servants.

**FAMILY MEMBER:** For the purposes of this Ordinance a family member shall include the following: son, daughter, stepchild, parent, or grandchild.

**FARM.** A parcel of land, or contiguous parcels of land under common ownership, used primarily for agriculture.

**FARM RESIDENCE.** A dwelling unit located on a farm.

**FEEDLOT:** Any tract of land or structure, pen, or corral, wherein cattle, horses, sheep, goats, and swine and other livestock are maintained in close quarters for the purpose of feeding or maintaining such livestock, excluding a livestock feeding operation.

**FENCE.** An artificial barrier constructed of any material or combination of materials erected to enclose or screen areas of land.

**FENCE, DECORATIVE:** A designed fence or wall with openings representing 50 percent or more of the total front face surface that meets all of the following: (a) it contributes to the identification and beauty of the principal use; (b) it is not erected to satisfy any other provision of this code; (c) it does not act as a retaining structure; (d) it is made of material that typically is not found in security structures, such as chain link. Split rail and ranch rail are examples of decorative fencing.

**FENCE, HEIGHT.** The vertical distance measured from finished grade at the base of the fence to the highest point of the panels of a solid, picket, board-on-board or similar type fence, or the top rail of a chain link or split rail fence.

**FENCE, OPEN.** A designed fence or wall with openings representing more than 50 percent of the total front face surface that meets all of the following and it is made of materials typically found in security structures, such as chain link, wire mesh or similar materials.

**FENCE, SOLID.** A fence obscuring more than forty (40) percent of the view through the fence.

**FLASHING SIGN:** Any illuminated sign on which the artificial light is not always maintained stationary or constant in intensity and color when such sign is in use. For the purpose of this ordinance any revolving, illuminated sign shall be considered as a flashing sign. Due to their unique characteristics, electronic message board displays are not considered flashing signs.

**FLOOD or FLOODING.** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters, or the unusual and rapid accumulation or runoff of surface water from any source.

**FLOOR AREA FOR DETERMINING FLOOR AREA RATIO.** The sum of the gross horizontal areas of the several floors including the basement floor if a building, measured from the exterior faces of the exterior wall, or from the center lines of walls separating two buildings. The "floor area" shall also include the horizontal areas on each floor devoted to:

1. Elevator shafts and stairwells;

2. Mechanical equipment, except if located on the roof, when either open or enclosed, i.e., bulkheads, water tanks and cooling towers;
3. Habitable attic space as permitted by the Building Code of Menard County;
4. Interior balconies and mezzanines;
5. Enclosed porches;
6. Accessory uses.

The "floor area" of structures used for bulk storage of materials, i.e., grain elevators, petroleum tanks, shall also be included in the "floor area" and calculated as one floor for each ten feet of structure height. The horizontal area in each floor or a building devoted to off-street parking and off-street loading facilities and the horizontal area of a cellar floor shall not be included in the "floor area".

**FLOOR AREA FOR DETERMINING REQUIREMENTS FOR OFF-STREET PARKING AND LOADING.** "Floor Area" when prescribed as the basis of measurement of off-street parking spaces and off-street loading spaces for any use shall be the sum of the gross horizontal area of the several floors of the building, excluding areas used for accessory off-street parking facilities and the horizontal areas of the basement and cellar floors that are devoted exclusively to uses accessory to the operation of the entire building. All horizontal dimensions shall be taken from the exterior of the walls.

**FLOOR AREA, USABLE.** Any floor area within outside walls of a residential building exclusive of areas in cellars, basements, unfinished attics, garages, open porches, and accessory buildings, but including any area "roughed in" but not completed which is designed and intended for human occupancy.

**FLOOR AREA RATIO.** The numerical value obtained by dividing the floor area within a building or buildings on a lot by the area of such lot. The floor area ratio as designated for each district when multiplied by the lot area in square feet shall determine the maximum permissible floor area for the building or buildings on the lot.

**FREE-STANDING SIGNS:** Any sign not attached to a building; primarily ground signs, pole signs, pylon signs, and portable signs.

**FRONTAGE:** The front or frontage is that side of a lot abutting on a road or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side line of a corner lot. For further purposes of determining yard requirements on corner lots, all sides of a lot adjacent to roads shall be

considered frontage, and yards shall be provided as indicated under yards in this section.

**FUEL BULK STATION.** A place where crude petroleum, gasoline, naphtha, benzine, benzol, kerosene or other flammable liquid which has a flash point at or below two hundred degrees Fahrenheit (closed cup tester) is stored for wholesale purposes, where the aggregate capacity of all storage tanks is more than eight thousand (8,000) gallons, regardless of whether the fuel is stored above the ground, underground or in mobile tank cars or trucks.

**GARAGE, PRIVATE.** An accessory building or an accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families resident upon the premises, and in which no business, service or industry connected directly or indirectly with automotive vehicles is carried on; provided that not more than one-half of the space may be rented for the private vehicles of persons not resident on the premises, except that all the space in the garage of one or two car capacity may be so rented. Such a garage shall not be used for more than one commercial vehicle and the load capacity of such vehicle shall not exceed five tons.

**GARAGE / YARD SALE SIGN:** Any sign used in residential zoning districts to advertise the sale of used, unwanted household goods.

**GARBAGE:** Shall mean all putrescible animal, vegetable or mineral waste products resulting from the handling, storage, preparation, cooking or consumption of any food or any matter that may decompose and become offensive or dangerous to health.

**GOLF COURSE.** Public, semi-public, or private grounds over which the game of golf is played, including accessory buildings and land uses incidental thereto, and consisting of at least 60 acres for each standard nine-hole course; and 25 acres for each nine hole "par 3" course.

**GRADE:** The lowest point of elevation of the surface of the ground, paving, or sidewalk at any point adjacent to a structure. For the purposes of signs, grade shall be the established or finished elevation measured at the centerline of the adjacent street.

**GREENHOUSE AND/OR NURSERY CENTER:** An enterprise where plants grown on the site, as well

as accessory items directly related to the maintenance and care of plant life are sold.

**GREENHOUSE COMMERCIAL:** A greenhouse where flowers, shrubs and plants that are grown off-site are sold.

**GREENHOUSE NON-COMMERCIAL:** A greenhouse where flowers, shrubs, and plants are grown on-site for personal enjoyment, wholesale distribution, or sale off site. Non-commercial greenhouses are a form of agriculture.

**GROCERY/FOOD SALES.** The grocery and food sales use classification applies to uses which sell grocery, food, and beverage items, and such sales occur entirely within an enclosed building. Examples may include: convenience grocery stores (without gas pumps), grocery stores, supermarkets, fruit and vegetable stores, delicatessens, health food stores, meat markets/butcher shops, fish and poultry stores, bakeries, nut and confectionery shops, dairy products stores, and similar land uses.

**GROUND SIGN:** Any detached sign which has its bottom portion erected upon or mounted on a base that is permanently set on the ground that is at least as wide as the bottom of the sign. Ground signs are also commonly known as Monument Signs.

**GROUP HOME.** A single dwelling unit occupied on a relatively permanent basis in a family-like environment by unrelated persons with disabilities. Paid professional support staff, provided by a sponsoring agency, either living with the residents on a 24-hour basis, or present whenever residents are present at the dwelling, shall be required unless a Special Use approval is obtained to eliminate the requirement of supervision. A "Group Home" shall comply with the zoning regulations for the district in which the site is located.

**GUEST HOUSE.** Living quarters within a detached accessory building located on the same premises with the principal building, for use by guests of the occupants of the premises no longer than 90 continuous days. Such quarters can have kitchen facilities and shall not be rented or otherwise used as a separate dwelling.

**HALFWAY HOUSE.** A home for persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct, or inmates on release from more restrictive custodial care or initially placed in lieu of such more

restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society. A temporary residential living arrangement for persons who are receiving therapy and counseling from support staff who are always present. Residents are present for the following purposes:

1. To help them recuperate from the effects of drugs or alcohol addiction;
2. To help them re-enter society while housed under supervision while under the constraints of alternatives to imprisonment, including, but not limited to, prerelease, work release and probationary programs;
3. To help persons with family or school adjustment problems that require specialized attention and care to achieve personal independence; or
4. To provide temporary shelter for persons who are victims of domestic abuse.

**HARD SURFACE.** Any material placed on or above the earth that substantially reduces or prevents the natural percolation of water. Examples include, but are not limited to structures, including roofs and roof overhangs; parking areas; driveways; sidewalks; gravel areas; patios and decks; sport courts; pools and similar improvements.

**HARD SURFACE COVERAGE.** Total square footage of all hard surfaces on the property divided by the total square footage of the parcel multiplied by 100.

**HAZARDOUS:** Shall mean any condition, act or thing causing risk or danger to the public.

**HEALTH DEPARTMENT:** The Menard/Sangamon County Department of Public Health.

**HEIGHT:** The vertical distance from the average ground elevation to the highest point of the roof of a building or structure.

**HOME OCCUPATION.** Any occupation or profession engaged in by an occupant of a dwelling unit as a use which is clearly incidental and secondary to the use of the dwelling as a residence.

**HOME OCCUPATION - AGRICULTURAL.** A home occupation in an agricultural zoning district. Tearooms, restaurants, eating and/or drinking establishments, animal hospitals or kennels, clinics, general retail and wholesale, stables, undertaking establishments and funeral parlors shall not be deemed to be "home occupation".

**HOME OCCUPATION- RESIDENTIAL.** A home occupation in a residential zoning district. Tearooms, restaurants, eating and/or drinking establishments, animal hospitals or kennels, clinics, general retail and wholesale, stables, undertaking establishments and funeral parlors shall not be deemed to be a "home occupation".

**HOSPICE.** A temporary residential living arrangement for persons with a life-threatening illness that requires full-time support, therapy, and/or treatment.

**HOSPITAL OR SANITARIUM.** An institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care, for not less than twenty-four hours in a week, or three or more non-related individuals, suffering from illness, disease, injury, deformity, or other abnormal physical conditions. The term "hospital", as used in this ordinance does not apply to institutions operating solely for the treatment of insane persons, drug addicts, liquor addicts, or other types of cases necessitating restraint of patients, and the term "hospital" shall not be used for convalescent, nursing, shelter, or boarding homes.

**HOTEL, MOTEL, OR INN.** An establishment containing lodging accommodations designed for use by transients, or travelers or temporary guests. Facilities provided may include maid service, laundering of linen used on the premises, telephone and secretarial desk service, restaurants, cocktail lounges, meeting rooms, and ancillary retain uses provided access to such uses are from the exterior of the principal use. Short-term rentals of a maximum thirty (30) consecutive days in a dwelling, one family or dwelling, two family or accessory structures with residentially allowed occupancy permits shall not be considered hotels.

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

**ILCS:** Illinois Compiled Statutes.

**ILLEGAL SIGN:** A sign which contravenes this ordinance, or a nonconforming sign for which a permit required under a previous ordinance was not obtained.

**ILLUMINATED SIGN:** Any sign which is lit by an artificial (usually electric) light source.

**INCOMPATIBLE USE:** A use which is not compatible with other uses permitted in a district because it is inconsistent therewith.

**INDOOR BUSINESS SALES AND SERVICE.**

Uses which display or conduct, entirely within an enclosed building, the sale or rental of business-oriented products, equipment, merchandise, or services that are non-personal and non-professional in nature.

Examples may include: duplicating or photocopying sales and service; addressing, mailing, or stenographic sales and services; locksmith shops; computer sales and service; employment agencies; and similar land uses.

**INDOOR ENTERTAINMENT AND**

**RECREATION.** Uses which provide recreation or entertainment services entirely within an enclosed building. Examples may include: skating rink, arcades, billiards rooms/pool halls, dance hall/club, dance/music school or studio, gymnastic facility, martial arts facility, sports training facility, health/fitness club, and similar land uses. Adult and Regulated Uses are specifically excluded from this category.

**INDOOR RETAIL SALES OF GOODS (OTHER THAN GROCERIES OR FOOD).**

The indoor retail sales of goods use classification, excluding grocery and food sales, applies to retail uses which display or conduct the sale or rental of merchandise entirely within an enclosed building. Examples may include: antique shops, furniture stores, hardware stores, department stores, clothing/wearing apparel stores, bookstores, sporting goods stores, drug stores, pharmacies, florist shops, and similar land uses. Adult Uses are specifically excluded from this category.

**INDUSTRIAL PARK:** A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services.

**INDUSTRY, HEAVY:** The assembly, fabrication, manufacturing, storage or processing of goods and materials that ordinarily have significant impacts on the environment or on the use and enjoyment of adjacent property in terms of noise, smoke, fumes, odors, glare or health and safety hazards, or that otherwise do not constitute light industry, such as food processing plants, resource extraction, recycling centers, sawmills, composting services, scrap or salvage operations, petroleum storage facilities, or

facilities handling or processing hazardous and/or toxic material.

**INDUSTRY, LIGHT:** The assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place, where such processes are housed entirely within a building, or where the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, or processing does not exceed 25 percent of the floor area of all buildings on the lot. This includes, but is not limited to printing establishments, facilities for auto body work, welding, painting or major repair work, and sandblasting.

**INSTITUTIONS:** A building or premises used by an organized body, religious group or society for non-profit, non-commercial purpose. This definition may include a hospital, nursing home, library, college, university, school, government, convent, monastery or similar use.

**INFLATABLE SIGN:** Any sign or inflatable device of more than two (2) cubic feet in capacity designed to be filled with air or a gas lighter than air, displayed to attract the attention of the public. This definition shall include Balloons and Balloon Signs.

**INSTRUCTIONAL SIGN:** A sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as “no parking,” “entrance,” “loading only,” and other similar directives.

**INTERNAL ILLUMINATION:** The illumination of a sign which is produced by an artificial source of light concealed or contained within the sign itself, and which becomes visible in darkness through the translucent portion of the sign face.

**JUNK:** Includes, but is not limited to, old dilapidated scrap or abandoned metal, paper, cardboard, building and construction material and equipment (including, but not limited to wood, lumber, concrete, etc.), bottles, glass, tin cans, appliances, furniture, beds and bedding, rags, rubber, boats, tires, inoperable motor vehicles, machinery parts, and any other manufactured or constructed object which has outlived its usefulness in its original form (notwithstanding the fact that the object may have scrap value or could be reconditioned) where such object(s), due to its/their present condition and/or visibility, may reasonably be construed to be

unsightly, dangerous, or unsanitary. \*Unsightly is defined as “distasteful or unpleasant to look at as construed from a reasonable person standard”.

**JUNK YARD.** An open area where waste, scrap metal, paper, rags, or similar material are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including auto, farm implements and machinery, and building wrecking yards, but excluding similar uses taking place entirely within a completely enclosed building.

**KENNEL COMMERCIAL.** Any lot or premises or portion thereof other than an animal control facility, veterinary hospital, or animal shelter, where animals allowed by the Illinois Animal Welfare Act are maintained for boarding, training, or similar purposes for a fee or compensation and meet the requirements of the Illinois Animal Welfare Act.

**KENNEL, PRIVATE:** Any lot or premises on which not more than four (4) adult dogs are kept inside or outside belonging to the owner of the principal use, kept for the purposes of raising, breeding or show.

**LABORATORY, COMMERCIAL.** A place devoted to experimental study such as testing and analyzing. Manufacturing assembly or packing of products is not included within this definition.

**LANDSCAPED (LANDSCAPING OR LANDSCAPED CONDITION).** Landscaped shall mean an area planted and maintained in grass, shrubs, bushes, trees, or flowers.

**LANDSCAPING BUSINESS.** A business engaged in providing landscape care and maintenance services and/or installing trees, shrubs, plants, lawns, or gardens and businesses primarily engaged in providing these services along with the design of landscape plans and/or the construction and installation of walkways, retaining walls, decks, fences, ponds, and similar structures.

#### **LAWN AND GARDEN EQUIPMENT**

**STORAGE SHED.** A 200 square foot or less structure often purchased pre-built or as a kit in pre-fabricated sections. It is not served by heat, electricity or plumbing and is not placed on a permanent foundation. The structure is intended to store lawn; garden and/or pool care equipment.

**LITTER.** Any discarded, used, or consumed substance or waste, including but not limited to garbage, trash, refuse, debris, rubbish, grass

clippings, or other lawn or garden waste, newspapers, magazines, glass, metal, plastic, or paper containers or other packaging construction material, furniture, or anything else of an unsightly or unsanitary nature which has been discarded, abandoned, or otherwise disposed of improperly.

**LIVESTOCK.** means cattle, elk, reindeer, bison, horses, deer, sheep, goats, swine, poultry (including egg-producing poultry), llamas, alpacas, live fish, crawfish, and other animals that—  
(A) are part of a foundation herd (including producing dairy cattle) or offspring; or  
(B) are purchased as part of a normal operation.

**LIVESTOCK FEEDING OPERATION:** Any new or existing operation which stables or confines and feeds or maintains for a total of 45 days or more in any 12-month period a combination of at least 50 farm animals.

**LIVESTOCK FEEDING YARD.** An enclosure designed or used for the purpose of concentrated feeding or fattening of livestock for marketing.

**LIVESTOCK SALES YARD.** An enclosure or structure designed or used for holding livestock for purpose of sale or transfer by auction, consignment, or other means.

**LOADING AND UNLOADING SPACE, OFF-STREET.** An open hard surfaced area other than a street or public way, the principal use of which is for the standing, loading, and unloading of motor vehicles, tractors, and trailers to avoid undue interference with public streets and alleys. Such space shall not be less than ten feet in width, thirty-five feet in length, and fourteen feet in height, exclusive of access aisles and maneuvering space

**LODGING OR ROOMING HOUSE.** A building with not more than five guest rooms where lodging is provided for compensation pursuant to previous arrangement, but not open to the public or overnight guests.

**LOT.** A parcel of land legally described as a distinct portion or piece of land of record. In cases of recreational vehicle parks and campgrounds, a lot is a parcel of land designated on the official plot plan for the placement of a single recreational vehicle or tent and for the exclusive use of its occupants.

**LOT AREA, GROSS.** The area of a horizontal plane bounded by the center line of all adjacent public

streets and the lot lines where no public street is adjoining.

**LOT AREA, NET.** The area of a horizontal plane bounded by the front, side, and rear lot lines.

**LOT, CORNER.** The lot situated at the junction and abutting on two or more intersection street; or a lot at the point of deflection in alignment of a single street, the interior angle of which is 135 degrees or less.

**LOT COVERAGE.** The area of a zoning lot occupied by the principal building or buildings and accessory buildings.

**LOT DEPTH.** The mean horizontal distance between the front and rear lot line of a lot measured within the lot boundaries.

**LOT, FLAG:** A lot or parcel with access to the bulk of the property by means of a narrow corridor.

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

**LOT LINE, CORNER SIDE.** That portion of a lot boundary on a corner lot which lies along a public street and which is not identified as the front lot line.

**LOT FRONTAGE.** The front of any lot shall be that boundary of a lot along a public street; for a corner lot, the owner may elect either street lines as the front lot line.

**LOT, INTERIOR.** A lot other than a corner lot or reversed corner lot.

**LOT LINE, FRONT.** The front property line of a zoning lot.

**LOT LINE, INTERIOR.** A side lot line common with another lot.

**LOT LINE, REAR.** The rear lot line is the lot line or lot lines most nearly parallel to and remote from the front lot line.

**LOT OF RECORD.** A lot that is part of a recorded subdivision or a parcel of land that has been lawfully established and recorded at the county recorder's office.

**LOT, REVERSED CORNER.** A corner lot, the rear of which abuts upon the side of another lot, whether across an alley or not.

**LOT, THROUGH.** A lot having frontage on two parallel or approximately parallel streets, and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.

**LOT WIDTH.** The horizontal distance between the side lot lines as measured at the established front building setback line.

**LOT, ZONING.** See "Zoning Lot".

**MANUFACTURED HOME:** This definition shall include structures known as manufactured homes or mobile homes, manufactured after July 1, 1976. The construction of a manufactured/mobile type of single-family residence is regulated by the Federal Department of Housing and Urban Development (HUD) and must comply with the National Manufactured Home Construction and Safety Standards. Manufactured/mobile type homes may be used with or without a permanent foundation. These standards apply uniformly across the country and it is illegal for state or local unit of government to impose additional construction requirements. Manufactured/mobile type units will have a red metal tag permanently affixed to the rear of each towable unit. Manufactured/mobile type units shall be treated as a single-family detached dwelling if a minimum of twenty-four feet in width and more than thirty-five feet in length, installed on a permanent foundation, and shall have brick, wood or cosmetically equivalent exterior siding and a pitched roof.

**MANUFACTURING:** The use of land, building or structures for the purpose of manufacturing, assembly, making, preparing, inspecting, finishing, treating, altering, repairing, warehousing, or storing or adapting for sale of any goods, substance, article, thing, or service.

**MARINA.** A boat basin and recreational facility, located on water-frontage property, providing moorings for boats, and one or more of the following facilities: Boat launching ramps, boat livery, boat sales, maintenance shops, marine supply stores and fuel dock.

**MARQUEE OR CANOPY:** A roof-like structure of a permanent nature which projects from the wall of a building or overhangs the public way and is designed and intended to protect pedestrians from adverse weather conditions.

**MARQUEE OR CANOPY SIGN:** A sign that is mounted or painted on, or attached to, a canopy or marquee.

**MASSAGE or MASSAGE THERAPY.** A system of structural palpation or movement of the soft tissue of the body or the performance of non-sexual manipulative exercises or techniques as defined under the Illinois Massage Licensing Act 225 ILCS 57/10, by a Massage Therapist for compensation, except those persons exempted under 225 ILCS 57/25.

**MASSAGE SCHOOL.** Any place or establishment or facility which provides instructions in the theory, method and practice of massage or massage therapy which meets the minimum standards for training and curriculum as determined by the Illinois Department of Professional Regulation.

**MASSAGE THERAPIST.** A person who is licensed by the Illinois Department of Professional Regulation, as defined in 225 ILCS 57/1 et.seq. and administers massage for compensation.

**MEDICAL CANNABIS CULTIVATION CENTER or CULTIVATION CENTER.** A facility operated by an organization or business that is registered by the Illinois Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis. This definition is intended to remain consistent with the definition provided in 410 ILCS 130/10, as amended. In the event of a conflict between this definition and the statute, the definition from State law shall govern.

**MEDICAL CANNABIS DISPENSING ORGANIZATION or DISPENSING ORGANIZATION or DISPENSARY.** A facility operated by an organization or business that is registered by the Illinois Department of Financial and Professional Regulation to acquire medical cannabis from a registered Cultivation Center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients. This definition is intended to remain consistent with the definition provided in 410 ILCS 130/10, as amended. In the event of a conflict between this definition and the statute, the definition from State law shall govern.

**MEMORIAL OR TABLET SIGN:** The permanent part of a building which denotes the name of the

building, date of erection, historical significance, dedication, or other similar information.

**MICROBREWERY.** A person, including a brewery, who is a holder of a brewer license or non-resident dealer license who manufactures up to 930,000 gallons of beer per year and who may make sales and deliveries to importing distributors and distributors and to retail licensees in accordance with the conditions set forth in the Illinois Liquor Control Act. Also referred to as a “Class 1 brewer” per 235 ILCS 5/1-3.38.

**MICRO DISTILLERY or CRAFT DISTLLERY.** A facility that produces alcoholic beverages in quantities not to exceed fifteen thousand (15,000) gallons per year and includes an accessory tasting room. A tasting room allows customers to taste samples of products manufactured on site and purchase related sales items. Sales of alcohols manufactured outside the facility are prohibited. If state law changes the quantities the definition should reflect those changes.

**MOBILE HOME.** A structure, transportable in one or more sections, which, in the travel mode, is eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning and electrical systems contained therein and manufactured prior to June 15, 1976 to the HUD construction standards.

**MODULAR HOME:** The construction of a modular type dwelling unit is regulated by the Illinois Department of Public Health. Unlike the mobile type homes, the local unit of government may require additional items other than the minimum state requirements to be incorporated into the construction of modular homes. Modular type homes shall be placed on a permanent foundation. An Illinois approved modular dwelling will have a yellow seal on the electrical panel box of the home. Modular type units manufactured at a factory in Indiana will not bear an Illinois seal but rather will contain the seal of approval from the State of Indiana. Modular type units shall be treated as a single-family detached dwelling.

**MANUFACTURED/MOBILE HOME PARK:** An area of land containing spaces with required improvements and utilities for the long-term placement of manufactured and mobile homes and

may include services and facilities for the residents, but not including recreational vehicle parks or camps.

**MOTOR FREIGHT TERMINAL.** A building in which freight, brought to said building by motor truck, is assembled and sorted for routing in intrastate and interstate shipment by motor truck.

**MOTOR VEHICLE.** A vehicle of less than 16,000 pounds which is self-propelled and is capable of being licensed for operation upon the streets and highways of the State of Illinois, including automobiles, motorcycles, and light trucks.

**MOTOR VEHICLE REPAIR, MAJOR.** Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailer; collision service, including body, frame or fender straightening or repair and painting of vehicles.

**MUNICIPAL SOLID WASTE TRANSFER STATION.** Facilities where municipal solid waste is unloaded from collection vehicles and briefly held while it is reloaded onto larger long-distance transport vehicles for shipment to landfills or other treatment or disposal facilities. Recyclables may also be separated from Municipal Solid Waste at these facilities.

**NAMEPLATE.** A sign indicating the name and address of a building or the name of an occupant thereof, and the practice of a permitted occupation therein.

**NANO BREWERY.** A brewery that produces less than 1,000 barrels (31,000 gallons) of beer per year with 100% of its beer sold off-site.

**NONCONFORMING LOT OR PARCEL:** A lot or parcel of record or recorded deed, the area, dimensions, or location of which was lawful prior to the effective date of this Ordinance, or subsequent amendment thereto, but which fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

**NON-CONFORMING SIGN:** Any sign that does not conform to the requirements of this ordinance.

**NON-CONFORMING STRUCTURE.** Any building or structure lawfully established at the time of the adoption of this Ordinance or any amendments hereto that does not comply with the yard, height, bulk, or separation requirements contained the regulations of this Ordinance.

**NON-CONFORMING USE.** Any building, structure or land lawfully occupied by a use or lawfully established at the time of the adoption of this Ordinance or amendments hereto with the regulations of this Ordinance.

**NONPARTICIPATING PROPERTY.** For the purposes of commercial solar energy facilities and commercial wind energy facilities, a nonparticipating property shall have the same meaning as defined in 55 ILCS 5/5-12.

**NONPARTICIPATING RESIDENCE.** For the purposes of commercial solar energy facilities and commercial wind energy facilities, a nonparticipating residence shall have the same meaning as defined in 55 ILCS 5/5-12.

**NOXIOUS MATTER.** Material which can cause injury to living organisms by chemical reaction or can cause detrimental effects upon the psychological, social, or economic well-being of human beings.

**NURSING HOMES OR REST HOMES.** A home for the care of children or the aged or infirm, or place of rest for those suffering bodily disorders, but not including facilities for the treatment of sickness or injuries or for surgical care.

**NURSERY SCHOOL OR DAY NURSERY.** An institution providing care for three or more children under the age of seven years for periods of more than four hours but not exceeding twenty-four hours.

**NUISANCE:** Shall mean any act, condition or thing causing harm, danger, injury or resulting in the creation of a hazardous situation.

**OBSTRUCTION.** An obstacle, impediment or hindrance.

**OCCUPIED COMMUNITY BUILDING.** For the purposes of commercial solar energy facilities and commercial wind energy facilities, an occupied community building shall have the same meaning as defined in 55 ILCS 5/5-12.

**OFF-GRID SOLAR ENERGY SYSTEM.** A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

**OFF PREMISE IDENTIFICATION SIGN:** Any sign displaying the name and or logo of a business

and which is situated on a parcel of land other than the property for which the sign is identifying.

**OPEN SALES LOT.** Any land used or occupied for the purpose of buying and selling new or second-hand passenger cars or trucks, motor scooters, motorcycles, boats, trailers, aircraft, and monuments, and for the storing of same prior to.

**ORDINANCE.** Reference to "ordinance" herein shall be construed as the "Menard County Zoning Ordinance".

**OUTDOOR ADVERTISING STRUCTURE: (BILLBOARD).** A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises on which such sign is located or to which it is affixed (See Billboard).

**PAINTBALL FACILITY.** The location where a game in which players on one team seek to eliminate those on an opposing team by marking them with a water-soluble dye shot in capsules from air guns.

**PARCEL:** A contiguous lot or tract of land owned and recorded by the same persons or persons.

**PARCEL DELIVERY STATION.** A building in which commodities, sold at retail within the area and packaged by the retailer, are assembled, and routed for delivery to retail customers located within area.

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

**PARK:** An area open to the general public and reserved for recreational, educational or scenic purposes.

**PARKING AREA, PUBLIC.** An open, hard-surfaced area, other than a street or public way intended to be used for the storage of passenger automobiles and commercial vehicles under one and one-half ton capacity, and available to the public, whether for compensation, free or as an accommodation to clients or customers.

**PARKING SPACE, AUTOMOBILE.** Space within a public or private parking area not less than one hundred and eighty square feet (nine by twenty), exclusive of access drives, or aisles, ramps, columns

or office and work areas, for the storage of one passenger automobile or commercial vehicle under one- and one-half ton capacity.

**PARTICIPATING PROPERTY.** For the purposes of commercial solar energy facilities and commercial wind energy facilities, a participating property shall have the same meaning as defined in 55 ILCS 5/5-12.

**PARTICIPATING RESIDENCE.** For the purposes of commercial solar energy facilities and commercial wind energy facilities, a participating residence shall have the same meaning as defined in 55 ILCS 5/5-12.

**PENNANT:** Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

**PERSON:** Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, legal entity, or their legal representative(s), agent(s), or assign(s).

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

**PERFORMING ARTS CENTER.** The performing arts are art forms in which artists use their body or voice to convey artistic expression. Examples of performing arts may include: music, dance, fitness training, theatre arts, technical arts, online lessons, a performing arts preschool, etc.

**PERSONAL SERVICES.** Personal service uses are exclusively indoor land uses in which personal services are provided to individuals on a walk-in or on an appointment basis. Examples may include: barber shops, beauty shops, shoe repair/shoeshine shops, tailor/garment repair shops, small household appliance repair shops, travel office, and similar land uses. Adult and Regulated Uses are specifically excluded from this category.

**PHILANTHROPIC INSTITUTIONS.** A nonprofit nongovernmental institution organized and operated for charitable purposes whose net income does not inure in whole or in part to the benefit of shareholders or individuals but through donated assets and income to provide social useful services. Community foundations, endowments, hospitals, educational institution founded by charity and charitable trusts are types of philanthropic organizations.

**PICNICKER.** Any person or persons that visits the recreational vehicle park or campground, but does not stay overnight and is not employed by the recreational vehicle park or campground.

**PLACE OF WORSHIP.** A building, together with its accessory buildings and use, where persons regularly assemble for religious purposes and related social events and which building(s) and uses(s) are maintained and controlled by a religious body organized to sustain religious ceremonies and/or purposes.

**PLANNED UNIT DEVELOPMENT:** A parcel or tract of land having an area as herein required, initially under unified ownership or control, and which is intended to be the site for two or more principal uses, or one principal building for two or more principal uses, within which allowable exceptions in the district regulations are specified.

**PLANNED UNIT DEVELOPMENT, RESIDENTIAL:** A development comprised of attached and/or detached dwelling units that has coordinated common open space and service areas and is built in accordance with densities specified in the zoning district in which it is located.

**PLANNED UNIT DEVELOPMENT, NON-RESIDENTIAL:** A development comprised of attached and/or detached units containing, as its principal use, light industrial, industrial, or commercial uses only. The development should coordinate service areas and be built in accordance with densities specified in the zoning district in which it is located.

**PLANNED UNIT DEVELOPMENT PLAT:** A drawing or map made to a measurable scale upon which is presented a description and definition of the way in which the requirements of the Planned Unit Development and the Subdivision Ordinance are to be met and intended for recording with the County Recorder of Deeds.

**PLANNING COMMISSION:** The Menard County Planning Commission.

**PLAT:** A map, plan, or layout showing the subdivision of land into lots.

**POLE SIGN:** A sign mounted on one (1) or more freestanding pole(s) or pylons or another supporting base that is not as wide as the bottom of the sign.

**POLITICAL SIGN:** Any sign displayed in conjunction with an official election or referendum, used on behalf of candidates for elected public office or to advocate a position on referenda.

**PORCH.** A roof over structure, projecting out from the wall or walls or a main structure and commonly open to the weather in part.

**PORTABLE SIGNS:** Any sign attached to or mounted upon a frame intended to be moved from place to place. Such sign may be used as a temporary free-standing sign and may or may not include movable lettering.

**PREMISES:** Shall mean public and/or private real property, either improved or vacant, inhabited, or uninhabited, including buildings and other structures, vehicles, water crafts, and/or parts thereof.

**PRIMARY OPEN SPACE.** All non-buildable areas (except existing road rights-of-way), specifically wetlands, lands that are generally inundated (under ponds, lakes, creeks, etc.), land within the 100-year floodplain, slopes exceeding 25% and soils subject to slumping. Primary open space areas are predetermined by the locations of these features.

**PRIME FARMLAND:** Specific Prime Farmland soils are as defined by name in the Current Soil Survey of Menard County, Illinois.

**PRINCIPAL BUILDING OR STRUCTURE:** The primary building or structure upon a lot or parcel, or the building or structure which houses the principal use of the premises.

**PRINCIPAL USE.** The main use of land or buildings as distinguished from a subordinate or accessory use.

**PRIVATE AIRSTRIP.** A private aircraft landing strip open to residents and invitees or open to ultra-light or short take-off and landing vehicles only.

**PRIVATE CLUBS OR LODGES.** An association organized and operated for persons who are bona fide members typically paying annual dues, which owns, hires, or leases premises, the use of which premises is restricted to such members and their guests. The affairs and management of such associations are typically conducted by a board of directors, executive committee, or similar body chosen by the members. Food, meals, and beverages may be served on such premises, provided adequate dining room space and

kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests, provided such service is secondary, and incidental to the common objectives of the organization, and further provided that such sale or service of alcoholic beverages and food are following all applicable federal, state, county, and local laws and ordinances.

**PROJECTING SIGNS:** A sign wholly or partly dependent upon a building for support, and which projects more than twelve (12) inches in a perpendicular fashion from such building.

**PROPERTY:** A lot, parcel, or tract of land, together with any improvements and/or structures erected, constructed, or contained thereon.

**PROPERTY LINE:** The lines bounding a lot of record, a metes and bounds parcel, or a zoning lot, as defined herein.

**PROTECTED LANDS.** For the purposes of commercial solar energy facilities and commercial wind energy facilities, protected lands shall have the same meaning as defined in 55 ILCS 5/5-12.

**PUBLIC ENTERTAINMENT:** A building, structure or land used for the purpose of offering entertainment to the general public. Such entertainment may include fairs, carnival, museum, festival, bar, tavern, golf course, marina, theater, amusement park, aquarium, stadium, arena, zoo, or other similar entertainment.

**PUBLIC SERVICE FACILITIES.** A needed use in a large format to be used by the public including: Filtration plant, pumping station, and water reservoir, Gas regulator stations, Sewage treatment plant, Telecommunications hub, Electric substation, generators and booster stations and Non-exempt governmental uses.

**PUBLIC UTILITY.** Any person, firm corporation, or municipal department duly authorized to furnish under public regulation to the public, electricity, gas, steam, telephone, sewers, transportation, or water defined in 220 ILCS 5/3-105.

**RAILROAD RIGHT-OF-WAY.** A strip of land with tracks and auxiliary facilities for track operation, but not including depot loading platforms, stations, train sheds, warehouses, rail car shops, rail car yards, locomotive shops, water towers, etc., under regulation by the Interstate Commerce Commission (ICC).

**REAL ESTATE SIGN:** A sign used to advertise the sale or lease of an individual home, apartment office, or retail development.

**RECREATIONAL AREAS.** Parks and open space devoted primarily to the pursuit of outdoor recreational activities such as golf courses, fishing lakes, playgrounds, trails, and nature preserves; does not include outdoor commercial sporting activities. In cases of recreational vehicle parks and campgrounds, areas which are set aside for non-camping use. Recreational areas may include space for service buildings and/or accessory buildings as well as natural open space, children's playgrounds, and other recreational facilities.

**RECREATIONAL VEHICLE:** shall mean any vehicle or boat originally designed for living quarters, recreation, or human habitation and not used as a commercial vehicle, including, but not limited to, the following: (i) Boats -- meaning any vessel used for water travel, a boat mounted on a trailer shall be considered one vehicle; (ii) Camping Trailers -- meaning a folding or collapsible vehicle without its own motive power, designed as temporary living quarters for travel, camping, recreation or vacation use; (iii) Motor Homes -- meaning a temporary dwelling designed and constructed for travel, camping, recreational or vacation use as an integral part of a self-propelled vehicle; (iv) Off-Road Vehicles -- meaning vehicles intended primarily for recreational use off of roads where state vehicle licenses are required, e.g. dune buggy, go-cart, snowmobile; (v) Racing Car/Cycles -- meaning vehicles intended to be used in racing competition, such as a race car or racing cycle, a racing car/cycle mounted on a trailer shall be considered one vehicle; (vi) Travel Trailers -- meaning vehicles without its own motive power, designed to be used as a temporary dwelling for travel, camping, recreational or vacation uses; (vii) Truck Campers -- meaning a structure designed primarily to be mounted on a pick-up truck or truck chassis and designed to be used as a temporary dwelling for travel, camping, recreational or vacation uses, when mounted on a truck, such structure shall be considered one vehicle; (viii) Vans -- meaning noncommercial motor vehicles licensed by the State of Illinois as a Recreational Vehicle; and (ix) Vehicle Trailers -- meaning a vehicle without its own motive power that is designed to transport another vehicle, such as a boat, motorcycle or snowmobile for recreational or vacation use and that is eligible to be licensed or registered and insured for highway use, a vehicle trailer with a vehicle mounted on it shall be considered one vehicle.

**RECREATIONAL VEHICLE PARK OR CAMPGROUND.** A contiguous parcel of land which has been developed for the non-permanent placement of recreational vehicles and/or tents. Recreational Vehicle Parks may not be operated in whole or in part for the lease or rent of such vehicles by the park owner(s) or operator(s), nor can any such vehicle be inhabited as a permanent place of abode as defined in Section 1516.02 of this ordinance.

**RECYCLING CENTER:** Means a site or facility that accepts only segregated, non-hazardous, non-special, homogeneous, non-putrescible materials such as dry paper, glass, cans, or plastic, for short term storage for the subsequent use in the secondary materials market. This shall not include a facility which handles, collects, or otherwise stores or processes automobile bodies or parts.

**RECYCLING DROP-OFF POINT:** A collection point for small refuse items, such as bottles and newspapers, located within a container or small structure.

**REFUSE:** Shall mean all putrescible and non-putrescible solid wastes, including garbage, rubbish, ashes, street cleaning, tree wastes, dead animals, abandoned automobiles, discarded household appliances and junk.

**REGISTER.** In cases of recreational vehicle parks and campgrounds, a listing of the names, make of car, and license plate number of all campers and picnickers. Said list shall identify each person as a camper or a picnicker, the date the person arrived on the property, and the date that the person left the property. In the case of campers, the register shall also list which lot(s) the person camped.

**RENDERING.** A process that collects, cooks and processes bodies or parts of bodies of dead animals, poultry, or fish, or used cooking grease and oils, for the purpose of salvaging hides, wool, skins, or feathers, and for the production of animal, poultry, or fish protein, blood meal, bone meal, grease or tallow and converts it into stable, value-added materials. Rendering can refer to any processing of animal products into more useful materials, or more narrowly to the rendering of whole animal fatty tissue into purified fats like lard or tallow.

**RESEARCH AND DEVELOPMENT.** A building or group of buildings in which are located facilities for scientific research, experimental study, investigation, testing and experimentation, but not

primarily facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

**RESIDENCY.** The act or condition of residing or dwelling in a place.

**RESIDENTIAL CARE HOME:** A dwelling in which staff persons provide care, education, and participation in community activities for a group of unrelated individuals who have long-term mental, intellectual, developmental or physical disabilities or handicaps, and who are unable to live independently but are capable of community living if provided with an appropriate level of supervision, assistance and support services, but who do not require on-site medical or nursing facilities, with the primary good of developing or exercising basic skills for daily living. This does not include dwellings for persons whose primary reason for placement in the dwelling is the abuse of alcohol or controlled substances, or the need for continuous nursing or medical care, or of persons who have recently been released from incarceration, or dwellings which serve as an alternative to incarceration for persons convicted of criminal offenses or declared criminally insane or dangerous.

**RESIDENTIAL CARE HOME, SMALL:** A residential care home with five (5) or less residents.

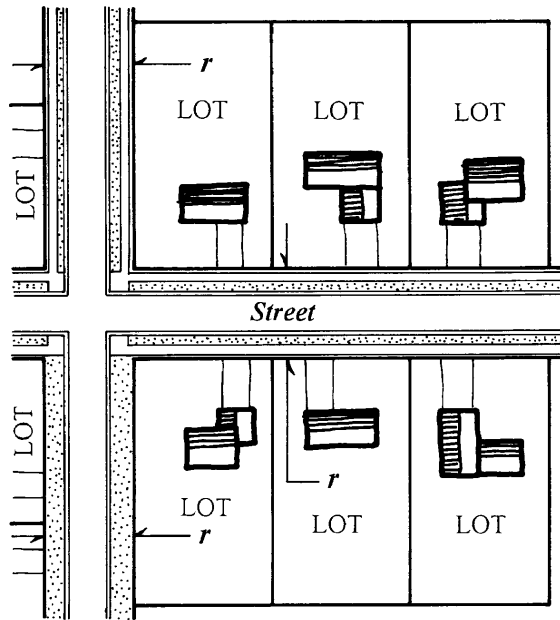
**RESIDENTIAL CARE HOME, LARGE:** A residential care home with more than five (5) residents.

**RESPITE CARE.** Usually planned residential care for dependent, elderly, or handicapped people, to provide relief for their permanent care givers.

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

**REST HOME.** See "Nursing Home".

**RIGHT-OF-WAY:** An area or strip of land, either public or private, on which irrevocable right-of-



*Right-of-Way (ROW) (r)*

passage has been recorded for the use of vehicles or pedestrians or both.

**ROADWAY RIGHT-OF-WAY LINE.** The edge of the public roadway right-of-way as dedicated or as shown as a prescriptive easement on a certified plat of survey. The edge of a private roadway right-of-way as dedicated as a common easement or commonly owned parcel. The width of land required by the Menard County Ordinance. The Zoning Administrator shall determine the actual line to be used for determining zoning setback requirements.

**ROAD:** A thoroughfare within the right-of-way which affords the principal means of access to abutting property. A road may be designated as an avenue, a boulevard, drive, highway, land, parkway, place, road, thoroughfare, or other appropriate name. Roads are identified as follows:

Subdivision standard: A road which is located within the planning jurisdiction of an incorporated municipality with an adopted comprehensive plan subject to the municipality's approval.

Arterial Road (Highway): A road maintained by and under the jurisdiction of the State of Illinois Department of Transportation.

Collector Road (Major): A road maintained by and under the jurisdiction of the Menard County Highway Department.

Minor Road (Minor): A road maintained by and under the jurisdiction of the various Menard County Township Road Commissioners except those roads classified as direct access roads.

Private Road (Minor): A road which has not been dedicated to the public and serves a limited number of properties or uses.

Direct Access Road: A road which is unrestricted in its access to properties or uses.

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

**RODENTS:** Shall mean rats and mice.

**ROOF MOUNT SOLAR ENERGY SYSTEM.** A solar energy system that is mounted on a rack that is fastened onto a building roof.

**ROOF SIGN:** A sign mounted on the roof of a building.

**RUBBISH:** Shall mean non-putrescible solid waste consisting of both combustible and noncombustible wastes such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, and similar materials.

**RUNWAY.** A strip or area of pavement used exclusively for the landing and taking off of aircraft, or for the movement of vehicles incidental to such use.

**SANITARY LAND FILL.** A method of disposing of refuse by spreading and covering with earth to a depth of two feet on the top surface and one foot on the sides of the bank.

**SCAVENGER:** Shall mean any person, company, or corporation who is engaged in the business either public or private, or collecting and disposing or garbage, refuse, and ashes, etc.

**SCHOOL:** A publicly or privately owned kindergarten, pre-school, elementary school, middle school, junior school, or high school which does not provide lodging for students. This shall not include any dwelling which receives less than five (5) students.

**SCREENING:** A method of visually shielding or obscuring structures or uses from abutting or nearby properties with fences, walls, berms, or densely planted vegetation.

**SEASONAL FESTIVAL.** A temporary event held during a specified time of the year which is designed to enhance the sales of seasonal crops and related products produced in conjunction with existing agricultural businesses such as orchards, vineyards, nurseries, and similar agricultural operations. Related activities may include, but are not limited to, corn mazes, wagon rides, pony rides, farm animal petting zoos, and pumpkin patches. Activities including amusement park rides, live music concerts, truck and tractor pull competitions are specifically prohibited from Seasonal Festivals.

**SECONDARY OPEN SPACE.** All buildable acreage protected as open space. Secondary open spaces shall include, at a minimum, a 150-foot-deep greenway buffer along all water bodies and watercourses, and a 50-foot greenway buffer alongside arterial and major collector streets and wetlands. The location of secondary open space areas shall be guided by the maps and policies contained in the Comprehensive Plan and shall typically include all or part of the following kinds of resources: mature woodlands, aquifer recharge areas, areas with highly permeable soil according to the Menard County Soil Survey, significant wildlife habitats, sites listed by the Critical Trends Assessment Program of the Illinois Department of Natural Resources, prime farmland, historic or traditional rural architecture reminiscent of Menard County's agricultural heritage, and scenic views into the property from existing public roads.

**SELF-SERVICE STORAGE FACILITY.** A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractors' supplies.

**SELF-STORAGE OR MINI-WAREHOUSE A** building consisting of individual, self-contained units that are leased or owned for the storage of business supplies and household goods. Business goods are limited to those not associated with any office, retail or other business or commercial use within the self-storage warehouse facility.

**SERVICE CLUB.** A voluntary non-profit organization where members meet regularly to perform charitable works either by direct hands-on efforts or by raising money for other organizations.

**SERVICE STATION.** A place where gasoline, stored in underground tanks, kerosene, lubricating oil, or grease, for operation of motor vehicles, are

offered for sale directly to the public on the premises, and including minor accessories and the service of motor vehicles; but not including major motor vehicle repairs, and including washing of motor vehicles. When the dispensing sale or offering for sale of motor fuels or oil is incidental to the conduct of a motor vehicle repair facility, the premises shall be classified as a motor vehicle repair facility. Service stations shall not include sale or storage of automobiles or trailers (new or used).

**SETBACK:** The required minimum horizontal distance between the BUILDABLE area and the related front, side, or rear property lines.

**SETBACK LINE, BUILDING.** See "Building Setback Line".

**SHOOTING RANGE, INDOOR:** A Recreational Facility designed or used for shooting at targets with rifles, pistols, shotguns, or archery equipment, and which is completely enclosed within a building or structure.

**SHOOTING RANGE, OUTDOOR:** A Recreational Facility designed or used for shooting at targets with rifles, pistols, shotguns, or archery equipment, and which is not completely enclosed within a building or structure.

**SHORT-TERM RENTAL.** A dwelling, one family or dwelling, two family or accessory structures with residentially allowed occupancy permits that are rented for a maximum thirty (30) days.

**SHOPPING CENTER:** A commercial development which is designed, developed, operated, and controlled as a unit with off-road parking placed on the site to serve jointly all establishments in the center.

**SIGN.** A name, identification, description, display or illustration which is affixed to or painted or represented directly or indirectly upon a building, structure, tree, rock, or other object, or piece of land, and which directs attention to an object, product, place, activity, persons, institutions, organization, or business. However, a sign shall not include the flag, emblem or insignia of a nation, political unit, school, or religious group. A sign shall not include a sign located completely within an enclosed building unless the context shall be exposed to view from a street. Each display surface of a sign shall be a sign.

**SIGN, BUSINESS.** A sign which directs attention to a business or profession conducted, or to commodity,

service or entertainment sold or offered upon the premises where such a sign is located or to which it is affixed.

**SIGN, CHURCH BULLETIN BOARD.** A sign attached to the exterior of a church or located elsewhere on the church premises used to indicate the services or activities of the church and including its name, if desired.

**SIGN CONTRACTOR:** A person or entity who performs work for compensation in connection with the erection, construction, enlargement, alteration, repair, moving, improvement, maintenance, conversion, or manufacture of any sign.

**SIGN, FLASHING.** Any illuminated sign on which the artificial light is not always maintained stationary or constant in intensity and color when such sign is in use. For the purpose of this ordinance any revolving, illuminated sign shall be considered as a flashing sign.

**SIGN, GROSS SURFACE AREA OF.** A sign shall be the entire area within a single continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of same. However, such perimeter shall not include any structural or framing elements lying outside the limits of such sign and not forming an intricate part of the display.

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

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

**SIGN – ON PREMISES.** A sign, the content of which pertains to a product, service, place, activity, person, institution, business, or solicitation located on the same property on which the sign is located.

**SIGN STRUCTURE:** The sign and all parts associated with its mounting.

**SIGN SUPPORTS:** All structural features by which a sign is held up, including, for example, poles, braces, guys, and anchors.

**SITE COVERAGE:** The area of a Planned Development site which is covered by buildings, parking areas, roads, drives and loading areas.

**SITE PLAN:** A plan prepared showing dimensions, the boundaries of a site and the location of all buildings, structures, uses and principal site development features proposed for a specific parcel of land.

**SIGHT TRIANGLE:** The area of the corner lot closest to the intersection which is kept free of visual impairment to allow full view of both pedestrian and vehicular traffic.

**SOIL PRODUCTIVITY INDEX:** Productivity indexes provide a single scale on which soils may be rated according to their suitability for several major crops under specified levels of management.

**SPECIAL CONDITION:** A condition for the establishment of a special use.

**SLAUGHTERHOUSE.** An establishment where animals are butchered for food.

**SMALL POULTRY AND SMALL ANIMAL PROCESSING PLANT.** Operations in which the carcasses of slaughtered poultry are defeathered, eviscerated, cut-up, skinned, boned, canned, salted, stuffed, rendered, or otherwise manufactured or processed. Poultry and small animals are defined as rabbits, chickens, turkeys, ducks, geese, guineas, squab (pigeons up to one month old), small game birds such as quail, pheasant, and partridge.

**SOLAR COLLECTOR.** An assembly, structure, and the associated equipment and housing, designed for gathering, concentrating, or absorbing direct and indirect solar energy for which the primary purpose is to convert or transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

**SOLAR ENERGY.** Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

**SOLAR ENERGY SYSTEM (SES).** All components required to become a complete assembly or structure that will convert solar energy into electricity for use.

**SOLAR ENERGY SYSTEM, PRIVATE.** A collection of one (1) or more solar collectors designed for use by the occupant(s) of the zoning lot, planned development, commercial and industrial

park, or subdivision on which or in which said system is located; excess power generation is limited to net metering or similar technology with regulations set by the local power utility, community, county, and state. Private solar energy system equipment shall conform to applicable industry standards, and applicants for building permits for private solar energy systems shall submit certificates from equipment manufacturers that the equipment is manufactured in compliance with industry standards.

**SOLAR HOT AIR SYSTEM.** An active solar energy system (also referred to as Solar Air Heat or Solar Furnace) that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air.

**SOLAR HOT WATER SYSTEM.** A system (also referred to as Solar Thermal) that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

**SPECIAL EVENT SIGNS:** A temporary sign associated with a special event on the property where the sign is located that exceeds the allowable amount of time and number of signs permitted under Section 1608.2.3 of this Ordinance. Such signs must be related to the special event occurring on the property.

**SPECIAL USE.** Any use of land or buildings, or both, described and permitted herein, subject to the provisions of Section 1801 of this ordinance.

**SPECIAL USE TRANSFER:** Any change in the controlling interest of the special use regardless of whether the controlling party is an individual, business, (examples are: sole proprietorship, corporation, LLC) or other entity and specifically includes the transfer of shares which would change the controlling interest of a business holding the special use.

**STABLE, LIVERY.** Any building, other than a private stable, designed, arranged, used or intended to be used for the storage of horses and horse-drawn livery or both.

**STABLE, PRIVATE.** Any building, which is located on a lot on which a dwelling is located, and which is designed, arranged, used or intended to be used for housing horses for the private use of occupants of the dwelling.

**STABLE, PUBLIC (RIDING OR BOARDING STABLES).** A building and grounds which are designed, arranged, used or intended to be used for the storage, boarding, breeding of horses including accessory uses which may include riding and horsemanship and the hire of riding horses.

**STACKING REQUIREMENTS.** The number of cars and trucks that must be accommodated in a reservoir space while awaiting ingress or egress to specified business or service establishments.

**STAND, ROADSIDE.** A structure for the display and sale of only agricultural products which are produced on the premises.

**STORAGE SITE:** Shall mean public and/or private real property, either improved or vacant, including the buildings or structures thereon, vehicles, water crafts, or parts thereof, upon or in which refuse is stored for collection prior to final disposal.

**STORY.** That portion of a building included between the surface of any floor and the surface of the floor above it, or if there is no floor above, then the space between the floor and ceiling next above it. Any portion of a story exceeding fourteen feet in height shall be considered as an additional story for each fourteen feet or fraction thereof.

**STORY, HALF.** A half story is that portion of a building under a gable, hip, or mansard roof, the wall plates of which on at least two opposite exterior walls are not more than four and one-half feet above the finished floor of each story. In the case of one-family dwellings, two-family dwellings, and multiple-family dwellings less than three stories in height, a half story in a sloping roof shall not be counted as a story for the purpose of this ordinance. In the case of multiple family dwellings three or more stories in height, a half story shall be counted as a story.

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

**STREET LINE.** A line separating an abutting lot, piece, or parcel from a street.

**STRUCTURE.** Anything constructed, erected, or portable, the use of which requires a location on a parcel of land, including a gas or liquid storage tank that is principally above ground, as well as a mobile home and a prefabricated building. This includes a fixed or movable building which can be used either temporarily or permanently. Structure shall include,

but not limited to, buildings, swimming pools, fences, billboards, signs, towers.

**STRUCTURAL ALTERATIONS.** Any change other than incidental repairs which would prolong the life of the supporting members of a building or structure, such as bearing wall, column, beams, and girders.

**SUBDIVISION:** Any division, development, or resub division of any lot, area, or tract of land by the owner or agent, either by lots or by metes and bounds, into lots two or more in number for the purpose, whether immediate or future, of conveyance, transfer, improvement, or sale, with the appurtenant roads, alleys, and easements, dedicated or intended to be dedicated to public use or for the use of the purchasers or owners within the tract subdivided. The division of land for agricultural purposes not involving any new road, alley, or other means of access, shall not be deemed a subdivision. This definition applies except where applicable exceptions are made in the Woodford County Subdivision Code.

**SUBSTANTIAL IMPROVEMENT.** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure or site documented as deserving preservation by the Illinois Department of Conservation or listed on the National Register of Historic Places.

**SUPPORTING FACILITIES.** For the purposes of commercial solar energy facilities and commercial wind energy facilities, supporting facilities shall have the same meaning as defined in 55 ILCS 5/5-12.

**SWIMMING POOL:** A man-made rigid or semi-rigid structure for water, whether intended for indoor or outdoor use, having a depth at any point greater than two (2) feet and with a water surface area exceeding 125 square feet, which is used or intended to be used for swimming, wading, bathing, immersion, or partial immersion of human beings and which is constructed, installed, and maintained in or above ground.

**TAVERN OR LOUNGE.** A building where liquors are sold to be consumed on the premises, but not including restaurants where the principal business is serving food.

**TELECOMMUNICATIONS STATIONS.** A system consisting of a transmitter, a transmission medium, or a receiver used for the transmission of information over significant distances for the purposes of communication.

**TEMPORARY.** For a duration of time no longer than 7 days including weekends.

**TEMPORARY SIGN:** Any sign designed, constructed, or erected to display a message for a limited duration of time. Such signs include but are not limited to: Beacon or Search Light, Grand Opening, Inflatable, Political and Special Event Signs, as well as any other sign which by its definition and application in this chapter is designated as a Temporary Sign.

**TENT.** A structure, enclosure, umbrella structure, or shelter, with or without sidewalls or drops, constructed of fabric or pliable material supported in any manner except by air or the contents it protects.

**TERRACE, OPEN.** A level and rather narrow place or platform which, for the purpose of this Ordinance, is located adjacent to one or more faces of the principal structure and which is constructed not more than four feet in height above the average level of the adjoining ground.

**THEATER.** An establishment used to observe films and other visual material.

**THOROUGHFARES.** Primary, secondary and collector, as defined by the Official Menard County Comprehensive Plan.

**TOXIC MATERIALS.** A substance (liquid, solid, or gaseous) which by reason of an inherent deleterious property tends to destroy life or impair health.

**TRACT.** A parcel of land legally described or subdivided as a distinct portion or piece of land to be separately owned, used or developed, may consist of multiple Parcel Identification Numbers (PIN) for tax purposes.

**TRAILER.** Every vehicle without motive power designed for carrying property and for being drawn by a motor vehicle.

**TRAILER, RECREATIONAL.** A vehicular-type unit primarily designed as temporary living quarters for recreational, camping or travel use. It has a permanent chassis and it has its own motive power or is mounted on or towed by another vehicle. It is sometimes referred to as a travel trailer, camping trailer, truck camper, motor home or recreational vehicle.

**TRAILER CAMP OR PARK.** Any premises occupied by or designed to accommodate two or more automobile house trailers or mobile homes, or the parking of two or more trailers for business or storage purposes.

**TRAILER, OFFICE, OR STORAGE.** Any trailer designed for temporary use for an office or storage and not used as living quarters, temporary or permanent.

**TRANSPORTATION.** The use of land, buildings, or structure for airports, private or commercial, restricted landing areas, heliports, trucking, bus terminals, railroad stations and other similar means of transport.

**TRUCK PARKING AREA OR YARD.** Any land used or intended to be used for the storage or parking of trucks, trailers, tractors, and including commercial vehicle, while not loading or unloading, and which exceeds one and one-half tons in capacity.

**TRUCK STOP.** A facility that provides a much broader range services than a typical "Service Station". Such facilities are generally designed to accommodate the needs of commercial vehicles and interstate truck traffic in addition to the motoring public at large. Facilities may include one or more buildings designed for the maintenance, servicing, storage, or repair of commercial and passenger vehicles; for the dispensing of motor fuel and other petroleum products directly into motor vehicles, and trucks; the sale of accessories or equipment for trucks and similar commercial vehicles as well as areas for overnight parking and storage of such vehicles. A truck stop may also include overnight accommodations, car and truck wash facilities, showers, and/or restaurant facilities, primarily for the use of truck crews and the traveling public.

**UNFIT STRUCTURE.** Any structure which is so damaged, decayed, dilapidated, unsanitary, unsafe, vermin-infested, or used for illegal purposes that it creates a hazard to the safety or welfare of residents, occupants, or the public.

**USE.** Any purpose for which a building or other structure, or a lot or parcel may be designed, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or on a lot or parcel.

**USE, PERMITTED:** Any use which is or may be lawfully established in a particular district or districts, provided it conform with all requirements of these regulations for the district in which such use is located.

**USE, PRINCIPAL:** The primary purpose or function that a lot serves or is proposed to serve, distinguished from an accessory use. A principal use may either be permitted or special.

**USED CAR LOT.** A zoning lot on which used cars or new cars, trailer, or trucks are displayed in the open for sale or trade.

**UTILITIES.** Any above-ground structures or facilities, other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities, owned by a governmental entity, a nonprofit organization, a corporation, or any entity defined as a public utility for any purpose and used in connection with the production, generation, transmission, delivery, collection, or storage of electricity, water, sewage, gas, oil, or electronic signals.

**VARIANCE.** A deviation from the regulations or standards adopted by this ordinance which the ZBA or Hearing Officer is permitted to grant when strict enforcement would cause undue hardship owing to circumstances unique to the individual property, lot, structure, or premises for which the variance is sought.

**VERMIN:** Shall mean roaches, bad bugs, fleas, lice, or similar noxious animals of small size.

**VIEWING DEVICE.** Any device, whether or not coin operated which projects or displays visual images of moving and stationary objects, including but not limited to magic lanterns, films or slide projector or other light projection device, and video screens, cable receivers, or any electronic device which receives electromagnetic waves or electronic signals and displays the reconverted images on a screen.

**WALL SIGN.** Any sign attached parallel to and supported by a wall or building, and within six (6)

inches of such wall, or painted on the wall surface of any building.

**WAREHOUSE, DISTRIBUTION:** A use engaged in storage, wholesale, and distribution of goods or materials to another location for the purpose of resale or use at the place distributed to.

**WAREHOUSING, MINI STORAGE:** An establishment whose primary purpose is to provide space to the general public that may be used for the storage of goods and/or materials and made up of groups of individual units contained within one (1) or more structures.

**WATCHMAN.** A person who maintains security on a piece of land and/or its structures to protect it from fire, vandals, or thieves.

**WATERCOURSE.** Any flowing body of water including rivers, creeks, streams, or waterways; not to include small swales, impressions, or areas that puddle.

**WEEDS:** Shall mean any naturally-occurring, non-cultivated growth of wild vegetation, whether or not such constitute “noxious weeds” as defined by County Ordinance or State statute, exclusive of trees and other wood-stemmed plants, which harbor rodents, reptiles, and/or vermin to an extent which causes risk to the public health.

**WETLANDS.** Areas inundated or saturated by surface water or ground water at a frequency or duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions.

**WIND ENERGY SYSTEM, SMALL.** A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity that does not meet the kilowatt capacity in total nameplate generating capacity as defined by 55 ILCS 5/5-12 and which is intended to primarily reduce onsite consumption of utility power. If all applicable regulations are met a small wind energy system may contain more than one wind energy conversion system. This system may power properties in planned developments, commercial and industrial parks, or subdivisions on which or in which said system is located.

**WIND TOWER.** For the purposes of commercial solar energy facilities and commercial wind energy facilities, a wind tower shall have the same meaning as defined in 55 ILCS 5/5-12.

**WINDOW:** An opening in an exterior wall of a building, other than a door, which provides all or part of the natural light or ventilation or both, to an interior space.

**WINDOW AREA:** Any transparent area on a facade through which the interior of a premises may be viewed from outside.

**WINDOW SIGN:** Any sign which is affixed or placed so that its message or image is read as a part of the total composition of a window area.

**WRECKING YARD.** Any place where two or more vehicles, not in running condition, or parts thereof, are stored in the open and are not being restored to operation or any land, building, or structure used for wrecking or storing of such motor vehicles or parts thereof, and including the commercial salvaging of any goods, articles, or merchandise.

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

**YARD, CORNER SIDE.** A yard extending across the full length of a corner side lot line and lying between the roadway right-of-way line and the nearest line of the buildings.

**YARD, FRONT.** A yard extending across the full width of the zoning lot and lying between the roadway right-of-way line and the nearest line of the buildings.

**YARD, REAR.** A yard extending across the full width of the zoning lot and lying between the rear line of the lot and the nearest line of the principal building.

**YARD, REQUIRED.** The area between the road right-of-way and/or the property line and the minimum distance established for the appropriate setback for either front, side, or rear yard.

**YARD, SIDE.** The part of the yard lying between the nearest line of the principal building and a side lot line, and extending from the required front yard (or from the front lot line if there is no required front yard) to the required rear yard.

**ZONING BOARD.** The Menard County Zoning Board of Appeals (ZBA).

**ZONING ADMINISTRATOR.** Wherever in this Ordinance the term Zoning Administrator is used, it shall mean the Zoning Administrator appointed by the County Board and such deputies or assistants as have been or shall be duly appointed by the County Board. That officer is hereby authorized and it is his duty to administer and enforce the orders as are necessary therefore, and requiring such plats, plans, and other descriptive materials in connection with application for permits as are necessary for him to judge compliance with this Ordinance.

**ZONING DISTRICT:** An area or areas within the unincorporated portions of Menard County, Illinois, that have been designated as set forth on the Zoning District Map.

**ZONING MAPS.** The map or maps incorporated into this Ordinance as a part hereof, designating Zoning Districts.

**ZONING LOTS.** A single property, parcel, unit, tract, plot, or otherwise designated portion of land, having metes and bounds, which is designated by its owner or developer as a property, parcel, unit, tract, plot, or otherwise designated portion of land which is to be used, developed, or built upon as a unit under single ownership or control, and which is occupied or capable of being occupied by one (1) or more structures and the accessory structures. A zoning lot may or may not coincide with a lot of record.

## GENERAL PROVISIONS

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### User note:

**About this chapter:** Chapter 3 contains general zoning provisions along with requirements for parking stall dimensions, driveway width requirements, allowable projections into required yard spaces, landscaping, and loading space size requirements. This chapter also establishes the minimum number of off-street parking spaces, fence height requirements, accessory buildings, maximum allowable projection encroachments, and landscaping requirements for new buildings and additions. This chapter also provides for the jurisdiction to review and approve the availability of essential services such as sewer, potable water, street lighting, and fire hydrants for all new projects.

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### SECTION 301 SUPPLEMENTARY REGULATIONS AND STANDARDS

**301.01 ZONING PERMITS REQUIRED.** Except as provided by this Code and except after obtaining a zoning permit from the Zoning Administrator, it shall be unlawful within the County and the County's zoned municipalities to:

1. Establish any use of a building, structure, or land, either by itself or in addition to another use.
2. Expand, change, or re-establish any nonconforming use.
3. Erect a new building or structure or part thereof.
4. Rebuild, structurally alter, add to, or relocate any building or structure or part thereof.
5. Reduce the open space or plot area required for a building or structure, or to include any part of such open space or plot area as that required for any adjoining building or structure.

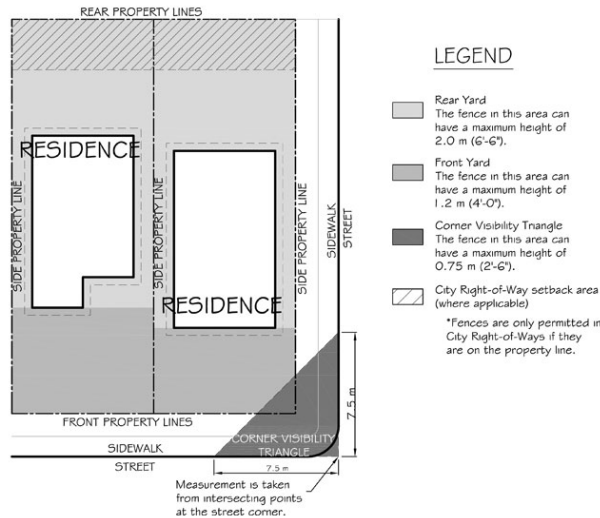
Where a building permit for a building or structure has been issued in accordance with law prior to the effective date of this Code, and provided that construction is begun within **six (6) months** of the effective date and diligently prosecuted to completion, said building or structure may be completed in accordance with the approved plans on the basis of which the building permit has been issued, and further, may upon completion be occupied under the use for which originally designated – subject thereafter, if applicable, to the provisions herein for Nonconforming Buildings, Structures, and Uses.

### SECTION 302 LOTS AND YARDS

**302.01 LOTS AND YARDS.** General Lot and Yard Requirements. Except as specifically provided

otherwise herein (the important exceptions being multiple-family complexes, manufactured home parks, and residences in agricultural districts occupied by persons engaged in agricultural activities and E.C.H.O. housing), only **one (1) dwelling** may be situated on any lot or lot of record. Thus, for example, it shall generally be unlawful to place a mobile home on any lot on which there is an existing dwelling. The following lot and yard regulations shall apply to all lots or tracts of land on which a structure is located.

1. The minimum yard space required for one structure for use shall not be considered as the yard of any other, including an adjoining structure or use.
2. Required yards shall be located on the same lot as the principal building or use.
3. No lot shall be divided, into two or more lots and no part of a lot shall be sold unless resultant lots conform to all yard or setback requirements in the district where the lots are to be located. Legal non-conforming structures, located on lots to be divided, shall not be required to conform to yard or setback requirements when property boundaries cannot accommodate said yard or setback requirements. This provision shall only be applicable when seeking a division of land.
4. At least two-thirds (2/3) of the area of a required front yard or corner side yard shall be landscaped except in the A-Agriculture District.
5. On corner lots in all districts, nothing shall be erected, placed, planted, or allowed to grow in the following described triangle area in such a manner as to impede vision between a height of two and one-half (2 ½) feet and ten (10) feet above the centerline of grade of the intersecting streets. The



triangle area is measured as follows: At the corner intersection property pin, measure back a distance of fifteen (15) feet, parallel with both street rights of way to form the legs of a triangle then complete the triangle with a line connecting the end point of each leg.

**301.02 ACCESSORY USES.** Accessory buildings, structures, and uses shall be compatible with the principal use and shall not be established prior to the establishment of the principal use, except the Zoning Administrator may issue a temporary zoning permit for the residential use by one family of any accessory building during the period greater than the date of first occupancy of the principal building or eighteen (18) months after issuance of permit, whichever is the earlier date. One building may be established on a lot prior to the establishment of the principal use provided that such building is used only for the storage of machinery and equipment necessary to maintain such otherwise vacant lot and provided that such building be no larger than necessary for storing such machinery and equipment.

Any accessory use (see Sec. 202, "Definitions") shall be deemed permitted in a particular zoning district if such accessory use is:

- Accessory to a principal structure or use that is allowed in that zoning district as of right (permitted) or by virtue of the fact that a special use permit has been granted.
- In compliance with the restriction set forth in Section 301.01.
- Constructed after or at the same time as the principal structure (exception – agricultural districts).
- In residential zoning districts (R1-R2-R3) accessory structures shall be subordinate in

area, extent, or purpose to the principal building or use.

- Incidental to the principal use established on the same lot, and shall serve no other principal use or purpose.
- Determined to contribute to the comfort, convenience, or necessity of users of the principal use.

## SECTION 303 OBSTRUCTIONS OR PROJECTIONS

**303.01 PERMITTED OBSTRUCTIONS.** No obstructions shall be allowed in any yard required by this code. However, the following shall not be obstructions when located in required yards specified subject to the requirements to maintain visibility at intersections contained in Sections 1519.03 and 1604.04 of this code.

**303.02 IN ALL REQUIRED YARDS.** Sills, cornices, and other architectural features extending eighteen (18) inches or less into the yard; free-standing night lights of not more than one-half (1/2) foot candle power; awnings or canopies projecting into a yard not more than twenty-five (25) percent of the required yard depth; steps, landings, and fire escapes necessary for access to buildings or lots; chimneys projecting two (2) feet or less into the yard; arbors and trellises, flag poles, trees, and shrubs;

**303.03 IN REQUIRED FRONT YARDS OR CORNER SIDE YARDS.** Bay windows projecting three (3) feet or less into the yard; unroofed terraces, decks or balconies not projecting over ten (10) feet into the yard; eaves and gutters; fuel, air, and water pumps in conjunction with automobile service stations, provided they shall be set back at least thirteen (13) feet back from the front property line; canopy over fuel pumps; advertising signs, devices, and nameplates.

**303.04 IN REQUIRED SIDE YARDS.** Eaves and gutters projecting two (2) feet or less; off street parking spaces in commercial districts; air conditioning equipment; refuse storage areas (dumpsters and garbage cans).

**303.05 IN REQUIRED REAR YARDS OF LOTS AND PARCELS, FIVE (5) ACRES OR LESS IN LOT SIZE.** Off street parking spaces; swimming pools; tennis courts, and other similar recreational facilities; accessory buildings (e.g., detached residential garages or carports or storage buildings); covered decks or screened porches; central air

conditioning equipment; refuse storage areas (dumpsters and garbage cans); terraces and decks; bay windows projecting three (3) feet or less into the yard; eaves and gutters, provided that eaves and gutters of accessory building are not closer than two (2) feet from a lot line.

## **SECTION 304 OUTDOOR LIGHTING**

304.01 OUTDOOR LIGHTING. All outdoor lights used to illuminate any lot shall be so shielded and directed to protect adjacent residentially zoned lots from direct or reflected glare.

## **SECTION 305 DUMPSTERS**

305.01 DUMPSTERS. Dumpsters providing refuse storage in the R-1, R-3 and B-1 zoning districts shall be screened with a wood or masonry fence on all sides except that area which must remain unobstructed to allow garbage pick-up. Individual garbage cans need not be screened.

## **SECTION 306 PARKING REGULATIONS**

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

306.02 PERMISSIVE PARKING AND LOADING FACILITIES. Nothing in this section shall be deemed to prevent the voluntary establishment of off-street parking and loading facilities beyond those required by this code to serve any new or existing uses of land or buildings, provided that there is adherence to all regulations herein governing the location, design, and operation of such facilities.

306.03 DAMAGE OR DESTRUCTION. When any building, structure or use which is in existence on the

effective date of this ordinance is restored and continued in operation after being damaged or destroyed by fire, collapse, explosion, or other cause, to the extent that the cost of restoration does not exceed fifty percent (50%) of the fair cash market value, there shall be required only off-street parking and loading facilities equivalent to any maintained at the time of such damage or destruction. However, in no case shall it be necessary to restore or maintain off-street parking or loading facilities more than those required by this code.

306.04 EXISTING USES. Whenever the existing use of a building or structure erected prior to the effective date of this code shall hereafter be changed to a new use, additional off-street parking or loading facilities shall be required for such use only in the event the floor area, number of dwelling units or other factor affecting off-street parking requirements is increased and then only to the extent required by the additional floor area, number of dwelling units, or other factor affecting the parking requirements.

306.05 PARKING AND LOADING AREA PLAN. No application for a zoning permit for a new, enlarged, or altered structure or improvement shall be issued, unless there is included within the application a plan showing the location, layout, and critical dimensions of all off-street parking and loading facilities. Such plan shall be drawn to scale and show vehicular access and circulation patterns.

306.06 DESIGN AND USE REQUIREMENTS. Required off-street parking spaces accessory to uses listed in this Section shall be solely for the parking of motor vehicles of less than one (1) ton capacity of occupants, patrons, or employees or vehicles used in a permitted home occupation. Each required space shall be always kept available for the parking of one motor vehicle.

306.07 STORAGE OF MAJOR RECREATIONAL EQUIPMENT. Any owner of major recreational equipment may park or store such equipment in a residence district subject to the following conditions: At no time shall such parked or stored equipment be occupied or used for dining, sleeping or housekeeping purposes while parked or stored in a residence district except that it shall be permissible for a bona fide guest of a householder to park, eat, and sleep in a mobile home, travel trailer, pick-up coach, motor-home or camping trailer in the rear yard of any dwelling house for a period not to exceed fourteen (14) days in one calendar year. If the major recreational equipment is parked or stored outside of a garage, it shall be parked or stored

to the rear of the front building line of the principal structure on the lot and outside the required side yard setback. Such equipment need not be stored on a hard surface.

**306.08 LOCATION.** Required off-street parking spaces in residential districts shall be located on the same lot as the use served.

Parking spaces required in other districts for all other uses shall be located on the same lot or on an adjoining lot, provided however that where ten (10) or more parking spaces are required:

1. Such parking spaces may be provided on a lot located no more than five hundred (500) feet as one walks from the lot requiring said parking.
2. Such lot shall be owned by the owner of the use requiring the parking or controlled by a five- (5) year lease on such lot.
3. No parking spaces permitted by above shall be located in a residential district.

**306.08 ACCESSORY LOCATION.** Accessory off-street parking spaces shall not be in the following locations:

1. In the R-1 Single Family and R-3 Multiple Family districts in the front yard(s) or corner side yard, except on a driveway or on a parking pad constructed of gravel, asphalt, or concrete, which parking pad is adjacent to an existing single car driveway and no closer than three (3) feet from the property line as follows:
  - a) In no case shall a parking pad be adjacent to a street side lot line. In any event, a driveway shall lead directly to the off-street parking space, while maintaining at least two-thirds (2/3) of the required front or required corner side yard in a landscaped condition.
  - b) In all other districts in the required front yard or corner side yard unless otherwise authorized in this code;

**306.09 VIOLATION.** It shall be unlawful for any person to park a motor vehicle or for the owner of a lot to permit such vehicle to remain parked at a location where off-street parking spaces would be prohibited by this section. When any vehicle shall be parked in violation of any provision of this section,

the person in whose name the vehicle is registered shall be prima facie responsible for such violation and subject to the penalties therefor. Defenses to the prima facie case shall be limited to a showing that the vehicle was not parked illegally or that the individual was not the registered owner at the time of the alleged violation.

**306.09 COMPUTATION.** When computation of the required number of off-street parking spaces results in a requirement of a fractional space, a fraction of less than one-half (1/2) shall be disregarded and a fraction of one-half (1/2) or more shall be counted as one space.

**306.09 COLLECTIVE PROVISION.** Two (2) or more buildings or uses may collectively provide the required off-street parking, in which case the number of parking spaces provided shall not be less than the sum of the separate requirements for each such building or use.

## **SECTION 307 PARKING DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS**

**307.01 REQUIRED NUMBER OF OFF-STREET PARKING SPACES.** There shall be provided for each building, structure, and use hereafter erected, structurally altered, or enlarged, the minimum of off-street parking spaces in accordance with the requirement specified in the applicable district regulation.

**307.02 OPEN AND ENCLOSED SPACES.** Accessory off-street parking spaces may be open to the sky or enclosed or partially enclosed in a structure.

**307.03 SURFACING.** Parking areas and driveways may be gravel provided dust control methods are in place.

**307.04 DRAINAGE.** All parking areas shall be pitched and drained to prevent the flow of water from such area directly onto adjoining property.

**307.05 SIZE AND ACCESS.** All off-street parking facilities shall be provided with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements. Each required parking space shall open directly upon an aisle, a driveway, or a public-way of such width and design as to always provide safe and efficient means of vehicular access and egress to such parking

space. Each off-street parking space proposed for a commercial or industrial establishment in the B-1, B-2 or M-1 zoning districts are required to delineate its exact location. In no case shall the dimensions of such parking space area be less than eighteen (18) feet by nine (9) feet.

## SECTION 308 DRIVEWAY

**308.01 COMMON DRIVES.** New common driveways in R-1 and R-3 districts are prohibited; Common driveways in the A agricultural, RR Rural Residential, and B-2 highway business districts are encouraged.

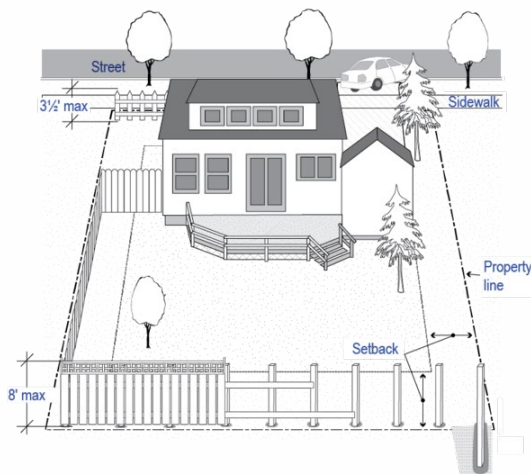
**308.02 DRIVEWAY WIDTH RESTRICTION.** No new driveway shall be less than ten (10) feet in width.

**308.03 DRIVE SETBACK DISTANCE.** No part of a new driveway other than a common driveway shall be located within three (3) feet of the side property line.

## SECTION 309 FENCE STANDARDS

**303.01 PURPOSE.** The purpose of this section is to ensure that all fencing erected within the county's jurisdiction is appropriate and not injurious or detrimental to public well-being.

**303.3 FENCE REGULATIONS.** Fences and walls, not exceeding six (6) feet in height when the principal use of a property is residential and eight (8) feet for all other principal uses except farms which shall have no maximum fence height restrictions. The



maximum fence height shall be measured from the established grade of the property.

**303.02 FENCE CONSTRUCTION.** Fences that are open or solid are allowed in all districts with the following conditions, unless otherwise regulated herein:

1. Only open fences, which do not exceed four (4) feet in height, are allowed along the front property line to the building setback line.
2. Fences which do not exceed six (6) feet in height are allowed to the side and rear of the principal structure. All solid fences shall be constructed with the finished side out in the Residential Districts.
3. Fences may be placed up to a property line provided that fences shall not encroach into rights-of-ways.
4. Fences may be placed on a corner lot beginning at the building setback line along the side and rear property line not to exceed six (6) feet in height.
5. Fences that are constructed in a non-residential district may be either open or solid fences and shall not exceed eight (8) feet in height.
6. Barbed wire fence and electric fences shall not be located in any residential district including R-1, R-3, and B-1.

## SECTION 310 SETBACK

**310.01 REGULATION.** To regulate and restrict the location and use of buildings and structures and restrict the intensity of such uses; and to establish building or setback lines outside the limits of incorporated cities, villages, and towns

**310.02 MEASUREMENT.** All setback requirements shall be measured from the overhang of the proposed structure.

**310.03 MINIMUM SETBACK.** Except as specifically provided otherwise elsewhere in this 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.

## **SECTION 311 SANITARY AND PRIVATE SEWERS**

**311.01 SANITARY AND PRIVATE SEWERS.** In all districts, property owners of all buildings and places where people live, work, or assemble shall provide for the sanitary disposal of all sewage in accordance with the following requirements:

- A. Whenever the public sanitary sewerage system is reasonably available (that is, when the distance from the property in question to the nearest public sewer with available capacity does not exceed six hundred (600) feet), all sewage shall be discharged into such system, whether or not a private sewer system is more convenient.
- B. Whenever the public sewer system is not reasonably available, a private sewer system (whether central or individual) shall be installed and used. All private sewer systems shall be designed, constructed, operated, and maintained in conformity with the following requirements:
  - 1. Illinois Private Sewage Disposal Licensing Act, (225 ILCS 225/1 - 225/23), as amended from time to time; and
  - 2. Illinois Private Sewage Disposal Code No. 4.002, promulgated by the Director of the Illinois Department of Public Health, as amended from time to time; and
  - 3. Pertinent, current regulations issued by the Illinois Environmental Protection Agency; and
  - 4. Applicable County or local codes and ordinances, particularly the County Subdivision Code.

## **SECTION 312 AGRICULTURAL EXEMPTION**

**312.01 AGRICULTURAL EXEMPTION.** The provisions of this Code shall not be exercised so as to impose regulations or require permits with respect to land used or to be used for agricultural purposes (as defined herein), or with respect to the erection, maintenance, repair, alteration, remodeling, or extension of buildings or structures used or to be used for agricultural purposes upon such land; except that said structures are required to meet building setback requirements applicable in the district in which the structure is to be built. No fee shall be charged to the applicant for a building permit for agricultural purposes in agricultural district. Should said land or structure cease to be used solely for agricultural purposes then, and only then, shall the other provisions of this Code apply.

## CHAPTER 4

# ESTABLISHMENT OF DISTRICTS

### User note:

**About this chapter:** Chapter 3 establishes classifications for zoning districts and provides for the application to regulate and restrict the uses and locations of buildings and to regulate the minimum required areas for yards, courts, and open spaces. This chapter also establishes requirements for jurisdictional zoning maps and minimum requirements for special-use areas, which include considerations as to their location to established or intended uses, or to the planned growth of the community.

## SECTION 401 DISTRICT CLASSIFICATIONS

**401.01 CLASSIFICATION.** To classify, regulate and restrict the locations of uses and locations of buildings designated for specific areas; and to regulate and determine the areas of yards, courts, and other open spaces within or surrounding such buildings. Property is hereby classified into districts as prescribed in this chapter.

## SECTION 402 DISTRICTS

**402.01 ESTABLISHMENT OF DISTRICTS.** Menard County is divided into the following zoning districts:

### Agricultural Districts

|   |             |          |
|---|-------------|----------|
| A | Agriculture | 30 Acres |
|---|-------------|----------|

### Residence Districts

|     |                   |                          |
|-----|-------------------|--------------------------|
| RR  | Rural Residential | 3 Acres                  |
| R-1 | Single Family     | 7500 square feet         |
| R-3 | Multiple Family   | see specific application |

### Business Districts

|     |                   |                  |
|-----|-------------------|------------------|
| B-1 | Downtown Business | 1800 square feet |
| B-2 | Highway Business  | 1 Acre           |

### Manufacturing Districts

|     |               |        |
|-----|---------------|--------|
| M-1 | Manufacturing | 1 Acre |
|-----|---------------|--------|

### Public Lands Districts

|     |              |      |
|-----|--------------|------|
| P-L | Public Lands | none |
|-----|--------------|------|

## SECTION 403 ZONING MAP

**403.01 ZONING MAP.** The location and boundaries of the districts are hereby established as shown on the Official Zoning Map of Menard County.

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

## SECTION 404 RULES FOR INTERPRETATION

**404.01 RULES FOR INTERPRETATION.** Where uncertainty exists with respect to the boundaries shown on the Zoning Map of Menard County, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines or existing ownership lines shall be construed as following such lines;
3. Boundaries indicated as approximately following governmental boundary lines shall be construed as following such lines;

4. Boundaries indicated as following railroad lines shall be construed to lie midway between the main tracks of such railroad lines;
5. Boundaries indicated as approximately following the center line of streams, canals, creeks, or other bodies of water shall be construed to follow such center lines;
6. Boundaries indicated as parallel to or following an extension of features in (1) through (5) above shall be so construed.
7. Where a district boundary divides property in single ownership or unified control at the time of the passage of this code, the Zoning Administrator, upon request of such property owner submitted within thirty (30) days of the adoption of this code, may extend the least restrictive zoning district applicable to any portion to such lot to the entire parcel and shall revise the official zoning map accordingly at the next regular update.

Where, due to the scale, lack of detail, illegibility, or where physical features existing on the ground are at variance with those shown on the Zoning Map and there exists any uncertainty, contradiction, or conflict as to the intended location of any boundary as shown thereon, the Zoning Administrator make an interpretation of said map upon request of any person. Any person aggrieved by such interpretation may appeal such interpretation to the Zoning Board of Appeals.

## **SECTION 405 SPECIAL USES**

**405.01 GENERAL.** The principal objective of this zoning code is to provide for an orderly arrangement of compatible buildings and land uses, and for the property location of all types of uses required for the social and economic welfare of the community. To accomplish this objective, each type and kind of use is classified as permitted in one or more of the various use districts established by this code. However, in addition to those uses specifically classified and permitted in each district, there are certain additional uses that it may be necessary to allow because of the unusual characteristics of the service they provide the public. These conditional uses require considerations as to their proper location to adjacent, established or intended uses, or to the planned growth of the community. The conditions

controlling the locations and operation of such special uses are established by the applicable sections of this code.

## **SECTION 406 CONSTRUCTION**

**406.1 APPLICATION OF DISTRICT REGULATIONS AND STANDARDS.** The regulations and standards set by this ordinance within each district shall be minimum regulations and standards and shall apply uniformly to each class, kind, or type of structure, use, or land except as hereinafter provided.

**406.02 CONSTRUCTION.** No structure or land shall hereafter be used or occupied and no structure or part thereof shall hereafter be constructed, erected, altered, remodeled, extended, or moved unless in conformity with all the regulations and standards herein specified for the district in which it shall be located.

**406.03 BUILDING CONSTRUCTION STANDARDS AND CODE.** The International Code Council establishes minimum requirements for codes and ordinances. This section recognizes and establishes Menard Counties compatibility with all of the International Codes (I-Codes) published by the International Code Council (ICC), including the International Building Code, International Energy Conservation Code, International Existing Building Code, International Fire Code, International Fuel Gas Code, International Green Construction Code, International Mechanical Code, Illinois Plumbing Code, International Property Maintenance Code, International Residential Code, and the International Swimming Pool and Spa Code.

This section is intended to establish provisions that adequately protect public health, safety, and welfare that do not unnecessarily increase construction costs; that do not restrict the use of new materials, products, or methods of construction; and that do not give preferential treatment to particular types or classes of materials, products, or methods of construction.

**406.04 HEIGHT AND LOT RESTRICTIONS.** No structure shall hereafter be constructed, erected, altered, remodeled, extended, or moved to exceed the height, or to occupy or house a greater number of families, or to occupy a greater percentage of the lot area, or to exceed the floor area ratio, or to have smaller or less habitable floor area per dwelling unit or lodging unit, or to exceed the maximum floor area than hereinafter required or in any manner contrary to

### 1. SITE COVERAGE

Principal building not to cover more than 35% of lot area. Attached structures (e.g., porches, decks) not to cover more than 10% of lot area.

### 2. FLOOR SPACE RATIO (FSR)

FSR not to exceed 50% of lot area. FSR means the ratio between the total square footage of all floors of the house (floor space) to the lot size.

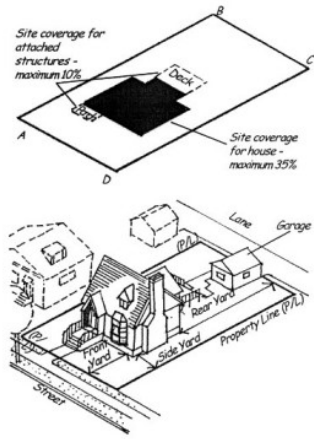
Example:  $\frac{3,000 \text{ square foot house}}{6,000 \text{ square foot lot size}} = 50\% \text{ FSR}$

### 3. YARDS

Front Yard: not less than 20% of the site depth but need not exceed 25 feet or the average setback of the two adjacent houses on either side.

Rear Yard: not less than 20% of the site depth but need not exceed 25 feet.

Side Yard: for lots with a frontage of 40 feet or more, side yards of not less than 10%, with any side yard not exceeding 5 feet. For lots less than 40 feet, 4 foot minimum side yards are required.



the regulations and standards of the district in which it is located.

Except in the following situations only, there shall be only one (1) main or principal structure, or main or principle use or combination of a main or principal structure and main or principal use on one (1) lot:

1. Planned unit developments.
2. Where the main or principal use of a lot is agriculture, farm dwellings, as main or principal structures, may be permitted provided each such dwelling meets the performance standards for dwellings specified for the district in which located.
3. If a new home (principal structure and use) is being constructed on a parcel where an existing home or mobile home already exists, the existing home or mobile home shall be removed from the parcel or demolished and all debris removed within 6 (six) months of occupancy of the new home.
4. E.C.H.O. - Elderly Cottage Housing Opportunities (ECHO Housing) is the provision of independent living quarters for elderly or disabled family members inside or within five hundred (500) feet of a Farm Residence in an agricultural area.

**406.05 ACCESSORY USE.** No accessory use shall be established prior to the establishment of the main or principal use; and no accessory structure shall be constructed, erected, altered, remodeled, extended, or moved prior to the establishment or construction of the main or principal structure except as follows:

1. In any district an accessory use or structure of a temporary nature required for the establishment

of the main or principal use, or for the construction of the main or principal structure.

2. The conversion of a trailer coach, travel trailer, camper vehicle, manufactured/mobile home, semi-trailer container, semi-trailer, storage trailer, storage container, shipping container, or enclosed box trailer into an accessory use, building or structure shall be prohibited. Contractors may temporarily place storage containers or storage trailers in any zoning district for the purpose of storing construction materials and/or equipment when associated with a valid building permit. Any storage container or storage trailer placed by a contractor must be removed within 14 calendar days of the conclusion of a construction project.
3. In the Agriculture, Conservation and Residential Districts on a lot of at least two (2) acres, an accessory use or structure not exceeding 1800 square feet in floor area, may be established to house equipment to maintain the lot, provided such accessory use or structure is not prohibited by any recorded covenants.

**406.06 ROAD FRONTAGE.** No structure shall be constructed or erected on a lot or tract of land or moved to a lot or tract of land which does not abut a Public or Private Road. Each Tract shall have a minimum of 200 ft. direct abutment of access to a Public or Private Road.

**406.07 LAWFUL CONSTRUCTION.** Nothing in this ordinance shall be deemed to require any change in plans, construction, or designated use of any structure existing or upon which construction was lawfully begun prior to the effective date of this ordinance provided that such structure shall be completed within one (1) calendar year from the effective date of this ordinance.

The performance standards, regulations, rules, requirements, provisions, and restrictions set by this ordinance shall apply to all structures, uses, lots, and tracts of land created or established after the effective date of this ordinance and shall not be deemed to require any change in the structures, uses, lots, and/or tracts of land lawfully existing on the effective date of this ordinance except as expressly specified hereinafter.

**406.08 DISTRICT USES.** The uses permitted in one (1) district shall not be permitted in any other district unless specifically stated in this ordinance. Special Uses permitted in one (1) district shall not be

permitted in any other district unless specifically stated.

**406.09 FLOODPLAIN DEVELOPMENT.** All new development proposals in the special flood hazard areas shall adhere to the Menard County Floodplain Ordinance and be reviewed and approved by the Zoning Administrator to ensure the following:

1. New development will not change the flow of flood or other surface drainage waters so that other properties become more susceptible to damage.
2. New developments will not create special hazards or nuisances when flooded.
3. New buildings and major improvements to existing buildings will not be subject to damage by the base flood.

**406.10 OPEN SPACES.** No yard, buffer strip, or other open space, off-road parking space or loading berth, or lot existing on the effective date of this ordinance shall be reduced in dimension or area below the requirements set forth hereinafter.

**406.11 DISCONNECTED TERRITORY.** All territory which may hereafter be disconnected from any incorporated area within the County shall be zoned in the same manner as the territory contiguous with such disconnected territory. Where such disconnected territory is contiguous with two (2) or more districts, it shall be zoned in the same manner as the district which has the largest contacting boundary to such disconnected territory until otherwise classified.

**406.12 MINIMUM FLOOR AREA.** The minimum habitable floor area shall be 400 square feet per dwelling unit.

## **SECTION 407 BUILDING CODE**

**407.01 ADOPTION.** The County adopts as the building code of the County the following documents with certain insertions, deletions, amendments, and changes. Should a conflict arise between codes, then the most stringent requirement shall apply.

1. International Building Code.
2. International Residential Code (including appendix A, B, C, E, F, G, H, J, O, Q).
3. National Electrical Code.
4. Illinois Plumbing Code.
5. International Mechanical Code.

6. International Fuel Gas Code.
7. International Existing Building Code.
8. Illinois Energy Conservation Code.
9. Illinois Accessibility Code.
10. International Swimming Pool and Spa Code.
11. NFPA 101 Life Safety Code
12. NFPA 855 Standard for the Installation of Stationary Energy Storage Systems

**407.02 SCOPE.** The Menard County Building Code shall be applicable to all buildings and structures constructed, enlarged, erected, repaired, altered, demolished, relocated, or changed in use or occupancy within the jurisdiction of Menard County.

**407.03 INTENT.** The intent of the Building Code of the County is to ensure public safety, health, and welfare insofar as they are affected by building construction through structural strength, adequate means of egress facilities, sanitary equipment, light and ventilation and fire safety, and, in general, to secure safety to life and property from all hazards incidental to the design, erection, repair, removal demolition or occupancy of buildings, structures or premises.

**407.04 VIOLATION, PENALTIES.** Violations of this Code shall be processed in the manner prescribed for all other ordinance violations as established by the County Board. Any person who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the Code Official, or of a permit or certificate issued under the provisions of this Code, shall be guilty of an ordinance violation punishable by a fine of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense.

- a. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than fifty dollars (\$50.00) or more than one thousand dollars (\$1,000.00).
- b. Nothing herein shall prevent the County State's Attorney from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the persons' responsible.

407.05 MEANS OF APPEAL. An appeal may be taken to the Menard County Zoning Board of Appeals by any person aggrieved, from any order, requirement, decision, or determination made by the Code Official in the Officials' interpretation of the County Building Code. Such appeal shall be taken within twenty (20) days of the date of the action from which it is taken by filing with the Code Official and with the Zoning Board of Appeals a notice of appeal specifying the grounds thereof. The Zoning Board of Appeals shall thereupon set a reasonable date, time, and place for a hearing of said appeal, and shall cause written notice thereof to be mailed to the appealing party or attorney, and to the Code Official. The Menard County Zoning Board of Appeals may reverse or affirm, wholly or partially, or may modify the order, requirement, decision, or determination as, in its opinion ought to be done or made in the premises, and to that end shall have all the powers vested in the Code Official by this chapter. A concurring vote of the majority of the Zoning Board of Appeals members shall be necessary to reverse, in whole or part, or to modify, any orders, requirements, decisions, or determinations of the Code Official. The Menard County Zoning Board of Appeals shall keep minutes of its proceedings hereunder showing the vote of each member upon every question, or if absent or failing to vote, indication of such fact, and shall also keep records of its examinations and other official actions. All decisions of the Menard County Zoning Board of Appeals hereunder shall be reduced to writing, filed with the Clerk of the Menard County Board, and a copy thereof mailed to the appealing party and to the building officer.

407.06 INTERNATIONAL BUILDING CODE.

Amendments to the International Building Code are as follows:

1. Sec. 101.1. "Title" insert "Menard County."
2. Sec. 101.4.3. "Plumbing" deletes International Plumbing Code and insert State of Illinois Plumbing Code as most recently published.
3. Sec. 101.4.4. "Property Maintenance" delete this section in its entirety.
4. Sec. 105.5. "Expiration" shall be replaced in its entirety with the following:  
Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within one hundred eighty (180) days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of one hundred eighty (180) days

after the time the work is commenced. The Zoning Board of Appeals is authorized to grant in writing an extension or extensions to permits which have been open for a period exceeding two (2) years. The extension shall be requested in writing and justifiable cause demonstrated.

5. Sec. 113. "Board of Appeals" shall be replaced in its entirety with the following:  
An appeal may be taken to the Zoning Board of Appeals by any person aggrieved from any order, requirement, decision, or determination made by the Building Officer in the Officer's interpretation of the County Building Code. Such appeal shall be taken within twenty (20) days of the date of the action from which it is taken by filing with the Code Official and with the Zoning Board of Appeals a notice of appeal specifying the grounds thereof. The Zoning Board of Appeals shall thereupon set a reasonable date, time, and place for a hearing of said appeal and shall cause written notice thereof to be mailed to the appealing party or attorney and to the Code Official. The Zoning Board of Appeals may reverse or affirm, wholly or partially, or may modify the order, requirement, decision, or determination as in its opinion ought to be done or made in the premises, and to that end shall have all the powers vested in the Code Official by this chapter. The concurring vote of the majority of the Zoning Board of Appeals members shall be necessary to reverse, in whole or part, or to modify, any orders, requirements, decisions, or determinations of the Code Official. The Zoning Board of Appeals shall keep minutes of its proceedings hereunder, showing the vote of each member upon every question, or if absent or failing to vote, indication of such fact, and shall also keep records of its examinations and other official actions. All decisions of the Zoning Board of Appeals hereunder shall be reduced to writing, filed with the Clerk of the County Board, and a copy thereof mailed to the appealing party and to the Code Official.
6. Sec. 114.4. "Violation Penalties" shall be replaced in its entirety by the following:  
Any person who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the Code Official, or of a permit

or certificate issued under the provisions of this Code shall be guilty of a petty offense, punishable by a fine of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense.

7. Sec. 115.3. "Unlawful Continuance" shall be replaced in its entirety with the following:  
Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than fifty dollars (\$50.00) or more than one thousand dollars (\$1,000.00).
8. Chapter 35. Referenced Standards.
  - a. Change International Plumbing Code to Illinois Plumbing Code.
  - b. Change International Electric Code to 2017 National Electrical Code.
  - c. Delete International Property Maintenance Code.
  - d. Delete International Private Sewage Code.
  - e. For all accessibility issues, refer to Illinois Accessibility Code.

#### 407.07 INTERNATIONAL RESIDENTIAL CODE.

Amendments to the International Residential Code are as follows:

1. Sec. R101.1. "Title" insert "Menard County."
2. Sec. R105.2. "Work Exempt from Permit" this section shall be eliminated in its entirety.
3. Sec. R105.5. "Expiration" shall be replaced in its entirety with the following:  
Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within one hundred eighty (180) days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of one hundred eighty (180) days after the time the work is commenced. The Zoning Board of Appeals is authorized to grant in writing an extension or extensions to permits which have been open for a period exceeding two (2) years. The extension shall be requested in writing and justifiable cause demonstrated.
4. Sec. R112. "Board of Appeals" shall be replaced in its entirety with the following:

An appeal may be taken to the Zoning Board of Appeals by any person aggrieved, from any order, requirement, decision, or determination made by the Building Officer in the Officer's interpretation of the County Building Code. Such appeal shall be taken within twenty (20) days of the date of the action from which it is taken by filing with the Code Official and with the Zoning Board of Appeals a notice of appeal, specifying the grounds thereof. The Zoning Board of Appeals shall thereupon set a reasonable date, time, and place for a hearing of said appeal and shall cause written notice thereof to be mailed to the appealing party, or attorney and to the Code Official.

The Zoning Board of Appeals may reverse or affirm, wholly or partially, or may modify the order, requirement, decision, or determination as in its opinion ought to be done or made in the premises, and to that end shall have all the powers vested in the Code Official by this chapter.

The concurring vote of the majority of the Zoning Board of Appeals members shall be necessary to reverse, in whole or part, or to modify, any orders, requirements, decisions or determinations of the Code Official. The Zoning Board of Appeals shall keep minutes of its proceedings hereunder, showing the vote of each member upon every question, or, if absent or failing to vote, indication such fact, and shall also keep records of its examinations and other official actions.

All decisions of the Zoning Board of Appeals hereunder shall be reduced to writing, filed with the Clerk of the County Board, and a copy thereof mailed to the appealing party and to the Code Official.

5. Sec. R113.4. "Violation Penalties" amend to read as follows:

Any person who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the Code Official, or of a permit or certificate issued under the provisions of this Code, shall be guilty of a petty offense, punishable by a fine of not less than fifty dollars (\$50.00) or more than one thousand dollars (\$1,000.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense.

6. Sec. R114.2. "Unlawful Continuance" amend to read as follows:

Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than fifty dollars (\$50.00) or more than one thousand dollars (\$1,000.00).

7. Table R301.2(1). Climatic and Geographic Design Criteria shall be completed with the following insertions:
  - a. Ground snow load: 20 lbs./sq. ft.
  - b. Wind design (speed): 115 mph
  - c. Wind design (topographic effects): No
  - d. Seismic design category: B
  - e. Subject to damage from (weathering): Severe
  - f. Subject to damage from (frost line depth): 42" below grade
  - g. Subject to damage from (termite): Moderate to heavy
  - h. Winter design temperature: 5 degrees Fahrenheit
  - i. Ice barrier underlayment required: Yes
  - j. Flood hazards: Refer to local designations
8. Sec. R313. "Automatic Fire Sprinkler Systems" delete in its entirety.
9. For all accessibility issues, refer to Illinois Accessibility Code.
10. Replace Chapters 25 through 34 Plumbing with Illinois Plumbing Code.

#### 407.08 NATIONAL ELECTRICAL CODE.

There are no amendments, deletions, or insertions to the National Electrical Code.

407.09 ILLINOIS PLUMBING CODE. The Illinois Plumbing Code (Part 890), as amended, published by the State Department of Public Health, (Administrative Code Title 77: Public Health, Chapter 1: Department of Public Health, Subchapter r: Water and Sewage, Part 890 Illinois Plumbing Code), is adopted, and incorporated by reference as the rules and regulations for the installation, repair and alteration of plumbing, private water supply systems, private storms drainage systems and private sewage disposal systems.

#### 407.10 INTERNATIONAL MECHANICAL CODE.

Amendments to the International Mechanical Code are as follows:

1. Sec. 101.1. "Title" insert "Menard County."

2. Sec. 106.4.3. "Expiration" replaces with the following:

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within one hundred eighty (180) days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of one hundred eighty (180) days after the time the work is commenced. The Zoning Board of Appeals is authorized to grant in writing an extension or extensions to permits which have been open for a period exceeding two (2) years. The extension shall be requested in writing and justifiable cause demonstrated.

3. Sec. 106.5. "Fees" delete.

4. Sec. 108.4. "Violation Penalties" replace with the following:

Any person who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the Code Official, or of a permit or certificate issued under the provisions of this Code, shall be guilty of a petty offense, punishable by a fine of not less than fifty dollars (\$50.00) or more than one thousand dollars (\$1,000.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense.

5. Sec. 109. "Means of Appeal" replace with the following:

An appeal may be taken to the Zoning Board of Appeals by any person aggrieved, from any order, requirement, decision, or determination made by the Building Officer in the Officer's interpretation of the County Building Code. Such appeal shall be taken within twenty (20) days of the date of the action from which it is taken by filing with the Code Official and with the Zoning Board of Appeals a notice of appeal, specifying the grounds thereof. The Zoning Board of Appeals shall thereupon set a reasonable date, time, and place for a hearing of said appeal and shall cause written notice thereof to be mailed to the appealing party, or attorney and to the Code Official.

The Zoning Board of Appeals may reverse or affirm, wholly or partially, or may modify the order, requirement, decision, or determination as in its opinion ought to be done or made in the premises, and to that

end shall have all the powers vested in the Code Official by this chapter.

The concurring vote of the majority of the Zoning Board of Appeals members shall be necessary to reverse, in whole or part, or to modify, any orders, requirements, decisions or determinations of the Code Official. The Zoning Board of Appeals shall keep minutes of its proceedings hereunder, showing the vote of each member upon every question, or, if absent or failing to vote, indication such fact, and shall also keep records of its examinations and other official actions.

All decisions of the Zoning Board of Appeals hereunder shall be reduced to writing, filed with the Clerk of the County Board, and a copy thereof mailed to the appealing party and to the Code Official.

6. Chapter 15. Referenced Standards. Change the following:
  - a. Change International Plumbing Code to Illinois Plumbing Code.
  - b. Change International Electrical Code to 2017 National Electrical Code.

#### 407.11 INTERNATIONAL FUEL GAS CODE.

Amendments to the International Fuel Gas Code are as follows:

1. Sec. 101.1. "Title" insert "Menard County."
2. Sec. 106.5.3. "Expiration" replaces with the following:
3. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within one hundred eighty (180) days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of one hundred eighty (180) days after the time the work is commenced. The Zoning Board of Appeals is authorized to grant in writing an extension or extensions to permits which have been open for a period exceeding two (2) years. The extension shall be requested in writing and justifiable cause demonstrated.

4. Sec. 106.6. "Fees" delete.
5. Sec. 109. "Means of Appeal" replace with the following:

An appeal may be taken to the Zoning Board of Appeals by any person aggrieved, from any order, requirement, decision, or determination made by the Building Officer in the Officer's interpretation of the County Building Code. Such appeal shall be taken within twenty (20) days of the date of the

action from which it is taken by filing with the Code Official and with the Zoning Board of Appeals a notice of appeal, specifying the grounds thereof. The Zoning Board of Appeals shall thereupon set a reasonable date, time, and place for a hearing of said appeal and shall cause written notice thereof to be mailed to the appealing party, or attorney and to the Code Official.

The Zoning Board of Appeals may reverse or affirm, wholly or partially, or may modify the order, requirement, decision, or determination as in its opinion ought to be done or made in the premises, and to that end shall have all the powers vested in the Code Official by this chapter.

The concurring vote of the majority of the Zoning Board of Appeals members shall be necessary to reverse, in whole or part, or to modify, any orders, requirements, decisions or determinations of the Code Official. The Zoning Board of Appeals shall keep minutes of its proceedings hereunder, showing the vote of each member upon every question, or, if absent or failing to vote, indication such fact, and shall also keep records of its examinations and other official actions.

All decisions of the Zoning Board of Appeals hereunder shall be reduced to writing, filed with the Clerk of the County Board, and a copy thereof mailed to the appealing party and to the Code Official.

1. Chapter F. Referenced Standards. Change the following:
  - a. Change International Electrical Code to 2017 National Electrical Code.
  - b. Change International Plumbing Code to Illinois Plumbing Code.

#### 407.12 INTERNATIONAL EXISTING BUILDING CODE. Amendments to the International Existing Building Code are as follows:

1. Sec. 101.1. "Title" insert "Menard County."
2. Sec. 105.5. "Expiration" replaces with the following:
3. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within one hundred eighty (180) days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of one hundred eighty (180) days after the time the work is commenced. The Zoning Board of Appeals is authorized to grant in writing an extension to permits

which have been open for a period exceeding two (2) years. The extension shall be requested in writing and justifiable cause demonstrated.

4. Sec. 112. "Board of Appeals" see amended Section 113 of 2018 International Building Code.

#### 407.13 ILLINOIS ENERGY CONSERVATION

CODE. The Illinois Energy Conservation Code, as amended and published by the Capital Development Board pursuant to the Capital Development Board Act (20 ILCS 3105/10.09-5) in Title 71, Chapter 1, Subchapter D, Part 600 of the Illinois Administrative Code, is adopted as the County's Energy Conservation Code to regulate energy efficient buildings standards for new construction, addition, alteration, renovation, or repair, with the following amendments:

1. Secs. C101.1 and R101.1. "Title" insert "Menard County."
2. Secs. C109 and R109. "Board of Appeals" see amended Section 113 of 2018 International Building Code.
3. Chapter 5. Referenced Standards. Change the following:
  - a. Change International Electrical Code to 2017 National Electrical Code.
  - b. Change International Plumbing Code to Illinois Plumbing Code.

407.14 ILLINOIS ACCESSIBILITY CODE. The regulations of the Illinois Accessibility Code, as published enforced by the State, published in pamphlet form, are adopted as the regulations governing accessibility in the County with such amendments as are hereafter set forth in this section.

407.15 INSPECTIONS. The inspections listed in Sections 407.16 through 407.27 are a list of the customary inspections for new construction and are generally required, unless otherwise noted and discussed in advance. The owner or contractor shall request the designated inspection forty-eight (48) hours in advance of the time when such inspection is to be made. An approved set of building plans shall be on the job site for all inspections. Plans not available on the site will be reason for a failed inspection. For all inspections a representative of the property owner should be present.

407.16 SITE INSPECTION. At the time the permit is applied for, the owner or builder shall put clearly visible stakes at the comers and offsets of all new construction and shall clearly mark the property

boundary stakes. This inspection is conducted to satisfy the County zoning, floodplain, and stormwater management requirements before the permit is issued.

407.17 FOOTING INSPECTION. This inspection is conducted after excavation when all the footing forms are in place and ready for the concrete to be poured.

407.18 FOUNDATION WALL INSPECTION. This inspection is conducted when forms are set and any reinforcement is in place before concrete walls are poured.

407.19 BACKFILL INSPECTION. This inspection is to be done not less than seven (7) days after concrete has been poured. Foundation walls must be stripped of forms. Damp proofing should be applied and visible down to the footing. Perimeter drain tile must be in place and covered with gravel as required by Code. Drain tile should be uncovered and visible at one (1) point on each wall and at point of distribution. Anchor bolts should also be in place and visible. During or after backfill an as-built (including top of foundation and distance to lot lines) survey must be submitted and approved by the Code Official prior to framing.

407.20 ELECTRICAL SERVICE INSPECTION. This inspection is scheduled prior to power being provided by supplier.

407.21 FRAMING AND WIRING. This inspection is done after the structure is framed; roofed and rough wiring is installed. This is done before any lath or inside wall covering or insulation is installed.

407.22 UNDERFLOOR PLUMBING INSPECTION. This inspection is done when all the under concrete floor plumbing is installed. All underfloor plumbing must be left uncovered so that it can be visibly inspected. (Inspection to be completed by State Plumbing inspector)

407.23 ROUGH PLUMBING. This inspection is done when all plumbing is installed and before insulation and drywall is in place. (Inspection to be completed by State Plumbing inspector).

407.24 INSULATION INSPECTION. This inspection is done when all the insulation is installed. The inspection will include checking to see all the insulation is installed as required for energy conservation. The inspection will also include

checking to see that all draft stopping is properly installed and complete at every level.

407.25 SLAB INSPECTION. This inspection is done prior to pouring concrete for a basement floor, garage floor or crawl space floor. The depth for concrete, placement of wire mesh and vapor barrier will be checked.

407.26 FINAL PLUMBING INSPECTION BEFORE OCCUPANCY. This inspection is done during the final occupancy inspection. All plumbing must be complete and operable.

407.27 FINAL OR OCCUPANCY PERMIT INSPECTION. Before calling the zoning office for a final inspection and occupancy permit, construction must be complete, including heating, lighting, water and sanitary hookups, gutters, down spouts, steps, handrails, porches, and all exterior finish. Final approvals of well, septic, and site development permits are also required before the release of the certificate of occupancy.

407.28 ZONING CERTIFICATE REQUIRED. A zoning certificate shall be approved before a building permit may be issued and requires the payment of a separate fee.

407.29 ADDRESS REQUIRED. Each parcel shall be assigned a new address upon application conforming to the NENA standards and NG911 protocols. The fee for assigning an address to a parcel shall be fifty dollars (\$50.00).

407.29(a) ENTRANCE PERMIT REQUIRED. An entrance permit will be required to a newly assigned addressed parcel, by the Road District or Menard County Highway Department having authority with the entrance location to be set by the addressing assigned.

407.30 TIME OF PAYMENT. All permit fees shall be due and payable prior to the beginning of construction. All re-inspection fees shall be due and payable prior to each inspection.

407.31 ADDITIONAL REVIEW FEES. In addition to the fees set forth in this chapter, all applicants seeking the approval of a building permit shall reimburse the County for all reasonable costs incurred as a result of the review of the application by a legal, engineering or other special consultant. The applicant shall provide a deposit to cover the estimated consulting and review fees. Payment of the additional review fees shall be made prior to the

issuance of the certificate of occupancy, except, when the payment is fully and completely secured by a deposit, the actual payment may occur after the issuance of the certificate of occupancy.

407.32 WAIVERS AND REFUNDS. No waiver and no refund shall be made for any fee paid pursuant to this chapter without the approval of the Zoning Administrator, Menard County Board of Appeals or the Menard County Board, except, all fees for actions or activities by the County are hereby waived and all fees for non-profit organizations shall be charged half of the normal fees for permits, provided they show proof of non-profit status as determined by the Menard County Zoning office and that the permit be used only by the organization itself. All other government entities shall be charged half of the normal fee for permits as determined by the Code Official.

407.33 GUTTERS. All new dwellings are required to have gutters and down spouts unless, in the opinion of the Code Official, an acceptable alternate method of roof stormwater runoff has been designed and installed.

407.34 PIERS. Piers are acceptable for open porches and decks only. The minimum pier sizes in inches shall be twelve (12) inches diameter by forty-two (42) inches deep for attached structures.

- a. Exception. An enclosed screened room or porch will be allowed only if the prints are stamped and sealed by a State-licensed architect or engineer.

407.35 PATIOS. Construction of new patios or expansions of existing patios which increase hard surface coverage in the R-R, R-1, and R-3 zoning districts shall require a building permit. Replacement of an existing patio that does not increase the size or amount of existing hard surface coverage will not require a permit.

407.36 POOL, TEMPORARY FENCES. A temporary fence shall be installed around all in ground swimming pools during excavation and construction. The design should be approved by the Code Official.

407.37 PORTABLE TOILETS. Each new single or multi family dwelling and commercial structures under construction shall have a portable toilet on site or other means approved by the Code Official.

407.38 ON-SITE REFUSE/CONSTRUCTION DEBRIS CONTAINERS. In all residential, business

and manufacturing districts, an appropriately sized refuse container shall be placed on new construction sites to contain construction debris in a neat and orderly manner and to prevent the blowing or washing away of materials onto surrounding properties or into the public way. The refuse container will need to be in place prior to approval of a foundation through completion of all construction activity and shall be emptied as needed to prevent overfilling and provide adequate waste containment during the construction process.

**407.39 ELEVATORS.** Permanent mechanical devices for the conveyance of passengers, including elevators, escalators, automobile lifts, man lifts, personnel hoists and moving sidewalks shall conform to all adopted Codes of the County and the office of the State Fire Marshal except as modified herein. The following shall be certified as conforming to all applicable Codes:

1. Construction documents.
2. Acceptance test.
3. Periodic tests and inspections.

Such certification shall be submitted by an approved agency. The term "approved agency" means a certified member of the National Association of Elevator Safety Authorities, or the American Society of Mechanical Engineers, or an equivalent approved by the Code Official.

Periodic tests and inspections shall be done at intervals of not more than six (6) months or as otherwise required by the Code Official.

Elevators in residential structures shall be exempted from the periodic test and inspection requirements.

**407.40 AGRICULTURE AND FARM RESIDENCE EXEMPTIONS.** All agricultural structures and buildings shall not be required to conform to the standards of the County Building Code nor shall they be required to pay any building fees pursuant to 55 ILCS 5/5-12001. An owner affidavit is required to identify the agricultural use. A site plan is required from the owner to confirm setbacks and floodplain compliance.

Owners of exempt agriculture and farm residence to be constructed may choose to voluntarily conform to the County Building Code, including plan submittal, inspections, certificate of occupancy, payment of fees, and all other procedures otherwise required of non-exempt construction.

**407.41 CAMPGROUNDS.** Decks and sheds located in approved campgrounds shall meet all applicable building codes, all applicable requirements of the County campground regulations, and all requirements of the applicable special use ordinance, but shall not

require a building permit, and shall only be subject to an inspection during the annual campground inspection period.

**407.42 CONCRETE TRENCH FOUNDATION.** All trench foundations shall not be less than ten (10) inches in thickness, and forty-two (42) inches in depth and must bell out to twelve (12) inches at the base, and must be on clean, solid, undisturbed soil that will provide the required pounds per square inch (psi) prescribed by code to sustain the superimposed structure placed upon which shall not exceed one (1) story (fourteen (14) feet) at the highest point.

**407.43 PLATS OF SURVEY.** All building permits will require two (2) original plats of survey, certified by a State-licensed surveyor showing existing and proposed buildings. Structures, water wells and septic system envelope and well and septic systems that will serve the proposed new structures along with locations of existing adjacent well and septic systems demonstrating separation distances as required by State and County Health Codes and ordinances. This may be waived at the discretion of Code Official if documents are not necessary to show compliance.

**407.44 SITE PLANS.** Where development is to occur on a lot with a designated floodplain area, the Code Official may require the elevation of the first floor of proposed building be shown along with the base flood elevation and its location on the site.

- a. The Code Official shall have the authority to specify required foundation elevations on lots or parcels of land that have soils with seasonal high-water tables, drainage problems, or that may be subject to localized flooding. In such a case, the Code Official shall also have the authority to require a site grading plan. The plan shall show existing topographic features, ground contours and drainage patterns as well as proposed building elevations, site improvements, ground contours and drainage design.
- b. Elevation information shall be on national geodetic vertical datum (NGVD). Verification of the finished improvements shall be drawn on a plat of survey showing the building location, finished foundation elevations, ground contours and drainage improvements.

## A - AGRICULTURE

### User note:

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

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

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

There are certain things that are commonly associated with, or accessory to, a farm. There are certain things that are not. Single-family residences for families engaged in farming operations are expected. Strip development of 5+ acre homesites along a road on the perimeter of a farm is not.

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

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

### SECTION 501 PURPOSE AND INTENT

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

### SECTION 502 PRINCIPAL USE

**502.01 PRINCIPAL USES.** The following principal uses are permitted in the Agricultural District:

1. Farms which may include the following accessory structures and land uses:
  - a. Single family dwelling (s), mobile home dwelling units as defined in Sections 202 and or 1302 (Mobile & Manufactured Home Regulations) or modular dwelling units intended at the time of original occupancy for family members or tenants engaged in the farming operation, or other agricultural housing for seasonal workers including the following accessory uses: Accessory buildings, e.g., storage buildings and garages; Recreational amenities including gardens, in-ground swimming pools, above-ground swimming pools, playhouses and playground equipment; yard encroachments including t.v. antennas, satellite dishes; home occupations
  - b. Buildings for the storage, maintenance and repair of machinery and equipment used in the farming operation
  - c. Buildings providing shelter for livestock raised in the farming operation
  - d. Buildings for the storage of agricultural products and supplies raised or used on the farm
  - e. Fields for growing crops
  - f. Pastures
  - g. Fenced animal confinement areas
  - h. Outside open storage of equipment and supplies used in agricultural productions
  - i. Farm drainage and irrigation systems
  - j. Private riding stables

- k. Dance/Fitness Center (no adult entertainment as defined will occur)
- l. Other structures or uses customarily incidental to agricultural activities
- m. Bed and Breakfast Establishment

#### 502.02 RESIDENCE AND DWELLING USE.

Converted farm residences, single family dwellings, mobile home dwelling units or modular dwelling units which were initially intended and which were used for occupancy by family members or tenants engaged in the farming operation but are no longer used and occupied by persons engaged in such operations. The applicant must provide evidence showing the residential structure has been used as part of a farming operation and that the structure meets the above definition of a converted farm residence.

### **SECTION 503 ACCESSORY USE**

503.01 ACCESSORY USES. The following accessory uses shall be allowed:

- a. Accessory buildings, e.g., storage buildings and garages.
- b. Recreational amenities including gardens, in-ground swimming pools, above-ground swimming pools, playhouses, and playground equipment; yard encroachments including t.v. antennas, satellite dishes; and home occupations.
- c. Permitted accessory buildings and land uses authorized in the Agricultural District for farms with the exception of Section 503.02 which shall not be applicable.

503.02 DWELLINGS. Single family dwellings, mobile home dwelling units as defined in Sections 202 and or 1302 (Mobile & Manufactured Home Regulations) or modular dwellings on tracts containing thirty (30) acres or more.

#### 503.03 RECREATIONAL AMENITIES.

Recreational amenities including gardens, in-ground swimming pools, above-ground swimming pools, playhouses and playground equipment; yard encroachments including t.v. antennas, satellite dishes; and home occupations.

#### 503.04 ADDITIONAL PUBLIC ACCESSORY

CATEGORIES. The following additional accessory uses shall be allowed:

- a. Bed & Breakfast establishments
- b. Day Care Homes
- c. Public Schools
- d. Churches and other places of public worship
- e. Cemeteries
- f. Public Parks
- g. Sod Farms & Tree Farms including Christmas Tree Farms

#### 503.05 ADDITIONAL PUBLIC ACCESSORY

AMENITIES. The following public accessory amenities may be provided in connection with the foregoing uses:

- a. off street automobile parking for employees and customers.
- b. dumpsters for collection and refuse generated on site.
- c. on premises advertising signs meeting the requirements of Section 1604.
- d. incidental seasonal sales from Christmas Tree Farms
- e. freestanding solar grids meeting the setback requirements of Section 505.04

### **SECTION 504 USES BY SPECIAL USE PERMITTING**

504.01 PRINCIPAL USES. The following principal uses are authorized by special use permit:

- 1. Agri-business, including but not limited to any of the following:
  - a. greenhouse/nursery
  - b. roadside produce stand
  - c. farm supply storage and sale
  - d. feed storage and sales
  - e. grain elevator/storage
  - f. livestock sales
  - g. farm equipment/implement sales and repair
  - h. agricultural research and development
  - i. public riding stable
  - j. veterinary hospitals or clinics
  - k. kennel
  - l. hunting facilities
  - m. fertilizer plants & storage tanks
  - n. winery
  - o. deer processing facility/meat market
  - p. automobile body shop

- q. lawn & landscaping services (may include greenhouse(s), nursery & other associated uses)
- r. Event venue to host reunion, proms, graduation and other similar events, weddings and weddings receptions, fundraisers, celebrations of life and similar gatherings.
- 2. Data Centers (see SECTION 1532 for additional regulations)
- 3. Battery Energy Storage Systems (see APPENDIX H for additional regulations)

504.02 RESTRICTIONS. Special Use permitting restrictions for Agri-business, including, but not limited to any of the following:

- a. Must be home-based from primary residence
- b. No larger than 1,200 square feet
- c. Must have documented Tax ID
- d. Ample parking per county ordinance
- e. No pod/trailer type structures

504.03 PUBLIC AND QUASI-PUBLIC USE. Public and quasi-public uses by special use permit.

- a. Hospitals/public medical facilities
- b. Public utility installation other than poles, towers, wires cables, laterals, vaults, conduits, and other similar distributing equipment of a public utility as defined in the Illinois Public Utilities Act or used for and in right-of-way of railroads but including towers, substations, exchanges, maintenance shops and yards and pumping stations, water filtration with associated treatment plants and elevated and underground storage tanks
- c. Arenas/stadiums
- d. Agricultural and horticultural fairs, displays, shows and exhibits
- e. Airport/heliport
- f. Public golf course
- g. Public highway & road district facilities
- h. Commercial/large scale solar farms meeting the requirements of the Menard County Solar Ordinance

504.04 RURAL AND HIGH IMPACT USE. Rural/High Impact Uses by special use permit.

- a. Mining and extraction of minerals
- b. Concrete batch plant/asphalt batch plant
- c. Prisons
- d. Sanitary landfills

504.05 ANIMAL CREMATORY SERVICES BY SPECIAL USE.

Companion Animal Crematory Services: A companion animal crematory service is an onsite service that is accomplished with a proprietary self-contained appliance installed as an appurtenance to a parcel and which is compliant with the Illinois Environmental Protection Agency's ROSS (Register of Smaller Sources, 35 Ill Adm Code 201.175) and whereby the service is performed by the owner of said parcel. The service will be an accessory special use to the principal agricultural use of the parcel or the principal use of a farm in which a residential dwelling is located and meets the following standards:

- a. Companion, domesticated, and non-commercially raised or produced animals will be allowed;
- b. Per the IEPA ROSS requirements, the crematory service is allowed up to 5 tons (10,000 lbs.) of material per year and a secondary particulate burner is also installed and utilized to meet NESHAP 40 CFR Parts 61 and 63, to ensure that no smoke or smell from the actual combustion is noticeable, and verification of such compliance shall be made to the County prior to any activity under this clause;
- c. Additional traffic does not create local roadway safety hazards to the property or neighboring property owners, off street parking shall be made available to limited on site visitors for the purpose of this service;
- d. Positioning of the appliance shall not be visible to neighbors and proper screening and/or any necessary measures to limit or prevent visible activity for said service to adjoining properties will be minimized to the best ability of the property owner;

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

504.06 SIGNS BY SPECIAL USE. Off premises advertising signs. Additional off-premises signs are not allowed as an accessory use when the principal use is an off-premise sign

504.07 AMENITIES RELATED TO SPECIAL USE.

The following amenities may be provided in connection with the forgoing special uses:

- a. Off street automobile parking for employees and customers;
- b. Dumpsters for collection and refuse generated on site;
- c. On premises advertising signs (except where the principal use is an off-premises advertising sign) meeting the requirements of Section 1604
- d. Freestanding solar grids meeting the setback requirements of Section 505.04
- e. Private Wind Energy Conversion System

Illinois Soils” bulletin 810 or current publication, which is managed by the University of Illinois. Soil classifications will be determined by the current approved USDA/NRCS Menard County Soil Survey.

## SECTION 505 BULK REGULATIONS

**505.01 AGRICULTURAL DISTRICT BULK REGULATIONS.** The following regulations apply across the entirety of the Agricultural District.

**505.02 MINIMUM LOT SIZE.** Minimum lot area:

- A. Farms – No minimum lot area except for the following farm accessory structures and land uses which shall have a minimum lot area requirement of 30 acres: Single family dwelling (s), mobile home dwelling units, as defined in Sections 202 and or 1302 (Mobile & Manufactured Home Regulations), or modular dwelling units, intended at the time of original occupancy for family members or tenants engaged in the farming operation, or other agricultural housing for seasonal workers including the following accessory uses: Accessory buildings, e.g., storage buildings and garages; Recreational amenities including gardens, in-ground swimming pools, above-ground swimming pools, playhouses and playground equipment; yard encroachments including t.v. antennas, satellite dishes; home occupations.
- B. Converted farm residences – One (1) acre. Principal structure must be at least 10 years old to qualify.
- C. Non-farm residential use
  - 1. One (1) dwelling unit per thirty (30) acres on soils with a predominant soil productivity index of more than 110; or
  - 2. One (1) dwelling unit upon three (3) acres or more, on soils with a predominant soil productivity index of 110 and lower.
    - a) Soil productivity is determined by the “Average Crop, Pasture, and Forestry Productivity Ratings for

D. Public schools – 5 acres

E. Churches, other places of public worship and day care homes – 1 acre

F. Cemeteries – 1 acre

G. Public parks – 1 acre

H. Agri-business uses – 1 acre except roadside produce stands where there shall be no minimum

I. Other public or quasi-public uses – 1 acre

J. Rural/high impact uses – 5 acres

**505.03 MINIMUM LOT WIDTH.** Minimum lot width: Minimum lot width shall be – 200’ extending to a distance equal to any front setback requirement with 200’ of frontage on a public road measured at the front setback line. Roadside produce stands shall have no minimum lot width

**505.04 MINIMUM SETBACK.** Minimum setbacks shall be:

- a. For principal and accessory buildings, structures and outside storage areas – front shall be one-half the distance of the necessary right of way of the applicable road, measured from the center of the road, and an additional 50’ (If existing right of way is greater than the necessary right of way, the front setback requirement of 50’ shall be measured from the existing right of way line); side 10’ except outdoor storage areas which shall have a 30’ minimum; rear 10’
- b. For converted farm residences and allowable accessory buildings, structures and outside storage areas – front shall be one-half the distance of the necessary right of way of the applicable road, measured from the center of the road, and an additional 50’ (If existing right of way is greater than the necessary

right of way, the front setback requirement of 50' shall be measured from the existing right of way line); side 10' except outdoor storage areas which shall have a 30' minimum; rear 10'

- c. Minimum setback for parking areas – front shall be one-half the distance of the necessary right of way of the applicable road, measured from the center of the road, and an additional 25' (If existing right of way is greater than the necessary right of way, the front setback requirement of 25' shall be measured from the existing right of way line); side 10'; rear 10'
- d. Pasture, fields and fences – no setback requirements
- e. Minimum structure setback from Illinois Route 97, Illinois Route 123 and Illinois Route 29 or any road designed as a principal arterial in the Menard County Comprehensive Plan shall be one-half the distance of the necessary right of way of the applicable road, measured from the center of the road, and an additional 75' of which 50% shall be landscaped or maintained in a natural state (If existing right of way is greater than the necessary right of way, the front setback requirement of 75' shall be measured from the existing right of way line).
- f. Private Wind Energy Conversion Systems shall be setback not less than 1.1 times the tower height from the necessary road right of way of a public road (as measured from the center of the public road pavement), overhead utility transmission lines, communication towers and adjacent property lines.

505.05 MINIMUM STRUCTURE HEIGHT.

Building or structure height - No maximum building or structure height, unless otherwise specified

505.06 MINIMUM PARKING. Minimum Parking

- a. For farms – 2 spaces per dwelling unit plus 1 space for every 2 full time equivalent employees.
- b. For single family residential including converted farm residence – 2 spaces per dwelling unit
- c. Other – 1 space per 300 square feet of floor area except floor area devoted solely to storage

## RR - RURAL RESIDENTIAL

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### User note:

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

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

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

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### SECTION 601 PURPOSE AND INTENT

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

### SECTION 602 PRINCIPAL USE

**602.01 PRINCIPAL USES.** The following principal uses are permitted:

1. Farms including permitted accessory buildings and land uses authorized in the A-Agricultural District for farms subject to the following additional regulations:
  - a. Only one single family dwelling shall be allowed on lots of less than twenty (20) acres. On lots of twenty (20) acres or more, additional dwelling units intended at the time of original occupancy for family members or tenants engaged in the farming

operation, or other agricultural housing for seasonal workers shall be allowed.

2. Single family dwelling, mobile home dwelling unit as defined in Sections 202 and or 1302 (Mobile & Manufactured Home Regulations) or modular dwelling unit with no farm uses or agricultural purposes.

### SECTION 603 ACCESSORY USE

**603.01 ACCESSORY USES.** The following accessory uses shall be allowed.

- a. Accessory buildings, e.g., storage buildings and garages.

#### 603.02 RECREATIONAL AMENITIES.

Recreational amenities including gardens, in-ground swimming pools, above-ground swimming pools, playhouses, and playground equipment; yard encroachments including t.v. antennas, satellite dishes; and home occupations.

#### 603.03 ADDITIONAL PUBLIC ACCESSORY

CATEGORIES. The following additional accessory uses shall be allowed:

- a. Bed and Breakfast Establishment
- b. Day care homes
- c. Cemeteries
- d. Churches or other places of public worship
- e. Public parks

#### **603.04 ADDITIONAL PUBLIC ACCESSORY**

**AMENITIES.** The following public amenities may be provided in connection with the foregoing permitted uses except for single family dwellings, mobile home dwelling units (as defined in Sections 202 and or 1302, Mobile & Manufactured Home Regulations) or modular dwelling units that are determined to be a principal use of property which shall not be allowed the following permitted accessory uses unless otherwise specified:

- a. Off street automobile parking for employees and customers.
- b. Dumpsters for collection and refuse generated on site. Dumpsters shall not be allowed on lots of less than twenty (20) acres where the principal use of a property is a farm or a single-family dwelling, mobile home dwelling or modular dwelling.
- c. On premises advertising signs meeting the requirements of Section 6.12. On premises signs shall not be allowed on lots of less than twenty (20) acres where the principal use of a property is a farm or single-family dwelling, mobile home dwelling or modular dwelling.
- d. Freestanding solar grids meeting the setback requirements of Section 605.04.

### **SECTION 604 USES BY SPECIAL USE PERMITTING**

**604.01 PRINCIPAL USES.** The following principal uses are authorized by Special Use permit:

- a. Day Care Centers
- b. Water Towers
- c. Public Golf Course
- d. Municipal well pump-houses to be operated in the public interest
- e. Ultra-light Aircraft Landing Strip
- f. Off premises advertising signs
- g. Public Highway & Road District Facilities
- h. Public Potable Water Treatment Plants
- i. Nursing and retirement homes
- j. Lawn & landscaping services (may include greenhouse(s), nursery & other associated uses)
- k. Commercial/large scale solar farms meeting the requirements of the Menard County Solar Ordinance

**604.02 ACCESSORY USES.** The following accessory uses may be provided in connection with the foregoing special uses:

- a. Freestanding solar grids meeting the setback requirements of Section 605.04
- b. Off-premises advertising signs. Additional off-premises signs are not allowed as an accessory use when the principal use is an off-premise sign
- c. Private Wind Energy Conversion System
- d. Photography Studios
- e. Event venue to allow activities such as, but not limited to; weddings, bridal showers, reunions.

#### **604.03 AMENITIES RELATED TO SPECIAL USE.**

The following amenities may be provided in connection with the foregoing special uses:

- a. Off street automobile parking for employees and customers.
- b. Dumpsters for collection and refuse generated on site
- c. On premises advertising signs (except where the principal use is an off- premise advertising sign) meeting the requirements of Section 1604

### **SECTION 605 BULK REGULATIONS**

**605.01 RURAL RESIDENTIAL DISTRICT BULK REGULATIONS.** The following regulations apply across the entirety of the Rural Residential District.

**605.02 MINIMUM LOT SIZE.** Minimum lot area:

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

605.03 MINIMUM LOT WIDTH. Minimum lot width: 200' extending to a distance equal to any front setback requirement with 200' of frontage on a public road measured at the front setback line. Roadside produce stands shall have no minimum lot width

605.04 MINIMUM LOT SETBACK. Minimum setbacks shall be:

- a. Minimum setbacks for principal and accessory buildings, structures and outside storage areas unless otherwise stated - front shall be one-half the distance of the necessary right of way of the applicable road, measured from the center of the road, and an additional 50' (If existing right of way is greater than the necessary right of way, the front setback requirement of 50' shall be measured from the existing right of way line); side 10' except outdoor storage areas which shall have a 30' minimum; rear 10'
- b. Minimum setback for parking areas – front shall be one-half the distance of the necessary right of way of the applicable road, measured from the center of the road, and an additional 25' (If existing right of way is greater than the necessary right of way, the front setback requirement of 25' shall be measured from the existing right of way line); side 10'; rear 10'
- c. Minimum structure setback from Illinois Route 97, Illinois Route 123 and Illinois Route 29 or any road designed as a principal arterial in the Menard County Comprehensive Plan shall be one-half the distance of the necessary right of way of the applicable road, measured from the center of the road, and an additional 75' of which 50% shall be landscaped or maintained in a natural state (If existing right of way is greater than the necessary right of way, the front setback requirement of 75' shall be measured from the existing right of way line)

- d. Private Wind Energy Conversion Systems shall be setback not less than 1.1 times the tower height from the necessary road right of way of a public road (as measured from the center of the public road pavement), overhead utility transmission lines, communication towers and adjacent property lines.

605.05 MAXIMUM STRUCTURE HEIGHT.

Building or structure height - No maximum building or structure height, unless otherwise specified

605.06 MINIMUM PARKING. Minimum parking

- a. Residential use 2 spaces per dwelling unit
- b. Other – 1 space per 300 square feet of floor area
- c. Parking for event venue: adequate off-street parking space to support the maximum occupancy level.

## R-1 SINGLE FAMILY RESIDENTIAL

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### User note:

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

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

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

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### SECTION 701 PURPOSE AND INTENT

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

### SECTION 702 PRINCIPAL USE

**702.01 PRINCIPAL USES.** The following principal uses are permitted:

1. Single family residential use which may include the following structures and land uses:
  - a. One single family dwelling or one modular dwelling unit (not mobile home dwelling unit)
  - b. Attached or detached garage(s), carports, and storage building(s)
  - c. A driveway and off-street automobile parking area containing not less than two nor more than four spaces
  - d. Fences not more than 6' in height (no barbed wire)
  - e. Recreational amenities including gardens, in-ground swimming pools,

- above-ground swimming pools, playhouses, and playground equipment
- f. Yard encroachments including t.v. antennas, satellite dishes
- g. Home occupations
3. Bed and Breakfast establishments
4. Day Care Homes
5. Cemeteries
6. Churches or other places of public worship
7. Public parks

### SECTION 703 ACCESSORY USE

**703.01 ACCESSORY USES.** The following accessory uses may be provided in connection with the foregoing permitted uses (other than single family residential uses):

- a. off street automobile parking for employees and customers
- b. dumpsters for collection and refuse generated on site
- c. on premises advertising signs meeting the requirements of Section 6.12
- d. freestanding solar grids meeting the setback requirements for a of Section 705.04

## SECTION 704 USES BY SPECIAL USE PERMITTING

704.01 PRINCIPAL USES. The following principal uses are authorized by Special Use Permit:

- a. Day Care Centers
- b. Not-for Profit Museums
- c. Water Towers
- d. Public Golf Course
- e. Public Potable Water Treatment Plants

### 704.02 AMENITIES RELATED TO SPECIAL USE.

The following amenities may be provided in connection with the forgoing special uses:

- a. Off street automobile parking for employees and customers
- b. Dumpsters for collection and refuse generated on site
- c. On premises advertising signs meeting the requirements of Section 1604
- d. Freestanding solar grids meeting the bulk regulations for setback requirements of Section 705.04

## SECTION 705 BULK REGULATIONS

705.01 SINGLE FAMILY RESIDENTIAL DISTRICT BULK REGULATIONS. The following regulations apply across the entirety of the Single-Family Residential District.

### 705.02 MINIMUM LOT SIZE. Minimum lot area:

- a. Residential Use – 7,500 square feet
- b. Bed and Breakfast establishments – 7,500 square feet
- c. Churches or other place of public worship, Cemeteries, Public Parks – 1 acre
- d. Day Care Homes and Centers – ½ acre
- e. Water Towers – 1 acre

### 705.03 MINIMUM LOT WIDTH. Minimum lot width:

- a. Residential use – 60' with 60' of frontage on a public road measured at the front setback line; 200' with 200' of frontage measured at the front setback line when a lot is to be accessed directly from any State of Illinois or Menard County Highway Department road or highway.
- b. Bed and Breakfast establishments – 60'
- c. Churches and other places of public worship, Cemeteries, Public Parks – 200'
- d. Day Care Centers – 100'

### 705.04 MINIMUM LOT SETBACK. Minimum setbacks shall be for buildings, structures, outdoor storage areas and parking areas:

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

705.05 MAXIMUM STRUCTURE HEIGHT.

Building or structure height - Building or structure height – 30' measured from the top of the foundation level

705.06 MINIMUM PARKING. Minimum parking

- a. Residential Use – 2 spaces per dwelling unit
- b. Other Use – 1 space per 300 square feet of floor area

## R3 – MULTIPLE FAMILY RESIDENTIAL

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### User note:

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

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### SECTION 801 PURPOSE AND INTENT

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

### SECTION 802 PRINCIPAL USE

**802.01 PRINCIPAL USES.** The following principal uses are permitted:

- a. Single family dwelling or modular dwelling units (but not mobile home dwelling units) including accessory uses permitted in the R-1 Residential District
- b. Two family and multiple family dwellings.
- c. Day Care homes
- d. Bed and Breakfast establishments
- e. Cemeteries
- f. Churches and other places of public worship

### SECTION 803 ACCESSORY USE

**803.01 ACCESSORY USES.** The following accessory uses may be provided in connection with the foregoing permitted uses:

- a. Attached or one detached garage (s) per dwelling unit containing a total of not more than 600 square feet per unit, but not both
- b. A driveway and off-street automobile parking area containing not less than two nor more than four spaces per dwelling unit
- c. Fences not more than 6' in height (no barbed wire)
- d. Recreational amenities including gardens, in-ground swimming pools, above-ground swimming pools, playhouses, playground equipment
- e. Yard encroachments including t.v. antennas, satellite dishes
- f. Home occupations
- g. Inside storage of yard and garden equipment including one storage building per dwelling unit containing not more than 120 square feet of floor area
- h. Outside storage in one or more defined fenced or screened area containing not more than 200 square feet per dwelling unit or 10% of the lot area (in the aggregate) whichever is less

#### **803.02 ADDITIONAL PUBLIC ACCESSORY**

**AMENITIES.** The following accessory amenities may be provided in connection with the permitted uses (other than single, two or multiple family uses):

- a. Off street automobile parking for employees and customers;
- b. Dumpsters for collection and refuse generated on site

- c. On premises advertising signs meeting the requirements of Section 1604

## **SECTION 804 USES BY SPECIAL USE PERMITTING**

804.01 PRINCIPAL USES. The following principal uses are authorized by Special Use Permit:

- a. Offices
- b. Convenience Stores
- c. Day Care Centers
- d. Mobile Home Parks
- e. Water Towers
- f. Public Golf Course

804.02 AMENITIES RELATED TO SPECIAL USE. The following amenities may be provided in connection with the forgoing special uses:

- a. Off street automobile parking for employees and customers
- b. Dumpsters for collection and refuse generated on site;
- c. On premises advertising signs meeting the requirements of Section 1604

## **SECTION 805 BULK REGULATIONS**

805.01 MULTIPLE FAMILY RESIDENTIAL DISTRICT BULK REGULATIONS. The following regulations apply across the entirety of the Multiple-Family Residential District.

805.02 MINIMUM LOT SIZE. Minimum lot area:

- a. Single family – 7500 square feet
- b. Two family – 5000 square feet per dwelling unit

- c. Multiple family – 2500 per dwelling unit but not less than 10,000 square feet
- d. Churches, other places of public worship, Day Care Homes, and Day Care Centers – ½ acre
- e. Bed and Breakfast establishments – 7500 square feet
- f. Cemeteries – one acre
- g. Offices - 10,000 square feet
- h. Convenience store – 10,000 square feet
- i. Mobile home parks – 2 acres
- j. Water Towers – 1 acre

805.03 MINIMUM LOT WIDTH. Minimum lot width:

- a. Mobile home parks – 200’
- b. All other uses: 60’ of frontage on a public right-of-way measured at the front setback line

805.04 MINIMUM LOT SETBACK. Minimum setbacks shall be for buildings, structures, outdoor storage areas and parking areas:

- a. Front – 30’
- b. Side – 10’
- c. Rear – 30’

805.05 MAXIMUM STRUCTURE HEIGHT. Building or structure height – 30’

805.06 MINIMUM PARKING. Minimum parking

- a. Residential – 2 spaces per dwelling unit
- b. Other – 1 space per 300 square feet of floor area

## B1 – DOWNTOWN BUSINESS

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### User note:

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

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

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### SECTION 901 PURPOSE AND INTENT

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

### SECTION 902 PRINCIPAL USE

**902.01 PRINCIPAL USES.** The following principal uses are permitted:

1. Accounting/Bookkeeping
2. Advertising services
3. Agri-business, including any of the following:
  - a. greenhouse/nursery
  - b. roadside produce stand
  - c. farm supply storage and sale
  - d. feed storage and sales
  - e. grain elevator/storage
  - f. farm equipment/implement sales and repair
  - g. agricultural research and development
  - h. veterinary hospitals or clinics
  - i. fertilizer plants & storage tanks
  - j. winery
  - k. deer processing facility/meat market
  - l. automobile body shop
4. Ambulance service
5. Amusement center/parks
6. Antique stores
7. Appliance repair shop
8. Appliance store
9. Art & school supply store
10. Art gallery, museum
11. Athletic club, indoor
12. Auction house
13. Automobile service station
14. Automobile, truck rental
15. Bakery and donut shops (retail sales only)
16. Ballroom, dance hall
17. Bank
18. Barber, beauty shop
19. Bed and breakfast
20. Blue print/copy shop
21. Book, stationery store
22. Bowling, billiard center
23. Bus passenger terminal
24. Business school
25. Candle shops
26. Candy & ice cream shops
27. Car wash
28. Cemeteries/columbarium
29. Churches and other places of public worship
30. Cleaning services, home/business
31. Clinics
32. Clothing store
33. Clubs, private
34. Collection services
35. Community center
36. Computer data-processing center
37. Convenience stores
38. Diary store
39. Dance studio
40. Day care centers
41. Delicatessen
42. Dental offices
43. Department store
44. Diaper store
45. Drive-in restaurants

46. Drug store
47. Dry cleaners
48. Dry goods store
49. Dwelling units when located above the first story
50. Exterminating pest control
51. Florist shop
52. Funeral parlor/mortuary
53. Fur store/sales
54. Furniture store
55. Garden supply shop
56. Gift shop
57. Greenhouse
58. Greeting card shop
59. Gun store
60. Gymnasium
61. Hardware store
62. Health club/spas/reducing salons
63. Hobby, toy store
64. Indoor tennis club
65. Jewelry store
66. Laundry/coin/retail
67. Lawn & landscaping services (may include greenhouse(s), nursery & other associated uses)
68. Leather goods shop
69. Liquor store
70. Lumberyard, building materials storage
71. Mail order store
72. Market, grocery store
73. Masseurs, masseuse services
74. Mobile home, recreational vehicle rental and sales
75. Motel, hotel
76. Motion picture theater
77. Motor vehicle parts & accessory sales
78. Motor vehicle repairs, paint shop
79. Motor vehicle sales
80. Motor vehicle storage
81. Music store/records/CD's
82. News stand
83. Night club/bar/tavern
84. Nursery school
85. Nursing and retirement homes
86. Office use
87. Optical goods sales
88. Park
89. Parking lot
90. Pet store
91. Photographic studios
92. Photographic supply sales
93. Police station
94. Postal services/shipping/mailling
95. Print shop
96. Public highway & road district facilities
97. Radio, radar site
98. Radio, TV station
99. Real estate services
100. Recreational vehicle sales
101. Restaurants
102. Retail lumber sales
103. Rug, floor-covering store
104. Shoe repair shop
105. Shoe store
106. Single family residential use which may include the following structures and land uses:
  - a. one single family dwelling, or one modular dwelling unit, or one mobile home dwelling unit as defined in §6.13 (Mobile & Manufactured Home Regulations)
  - b. attached or detached garage(s), carport(s) and storage building(s)
  - c. a driveway and off-street automobile parking area containing not less than two nor more than four spaces
  - d. fences not more than 6' in height (no barbed wire)
  - e. recreational amenities including gardens, in-ground swimming pools, above-ground swimming pools, playhouses, and playground equipment
  - f. yard encroachments including t.v. antennas, satellite dishes
107. home occupations
108. Specialty food store
109. Sporting goods sales
110. Storage; canned or bottled beverages
111. Storage; fiber products
112. Storage; flour, starch, sugar
113. Storage; loose or bagged agricultural products
114. Storage; loose or bagged processed food
115. Storage; metal, metal products
116. Storage; non-hazardous chemicals or plastic products
117. Storage; packaged foodstuff
118. Storage; packaged mineral products
119. Storage; packaged tobacco products
120. Storage; paper, paper products
121. Storage; rolled paper
122. Storage; seeds, beans nuts & silage
123. Storage, wood products, furniture
124. Supper club
125. Tailor, dress making shop
126. Theater
127. Tobacco shop
128. Travel bureau
129. Two family and multiple family dwellings including the following accessory uses:

- a. attached or one detached garage(s) per dwelling unit
- b. a driveway and off-street automobile parking area containing not less than two nor more than four spaces per dwelling unit
- c. fences not more than 6' in height (no barbed wire)
- d. recreational amenities including gardens, in-ground swimming pools, above-ground swimming pools, playhouses, and playground equipment
- e. yard encroachments including t.v. antennas, satellite dishes
- f. home occupations

- 130. Variety store
- 131. Veterinary hospitals
- 132. Video rental/sales
- 133. Wallpaper; paint store
- 134. Warehouse; general
- 135. Warehouse; mini (with or without dwelling unit for superintendent)
- 136. Welfare agency

## **SECTION 903 ACCESSORY USE**

903.01 ACCESSORY USES. The following accessory uses may be provided in connection with the foregoing principal uses:

- a. Off street automobile parking for employees and customers
- b. Dumpsters for collection and refuse generated on site
- c. On premises advertising signs meeting the requirements of Section 1604
- d. Freestanding solar grids

## **SECTION 904 USES BY SPECIAL USE PERMITTING**

904.01 PRINCIPAL USES. The following principal uses are authorized by Special Use Permit in the B-1 Downtown Zoning District:

- a. Off premises advertising signs (allowable accessory use for all principal uses except residential uses)

- b. Water Towers & accompanying accessory uses as listed in Section 6.07(C)
- c. Recycling Facilities & accompanying accessory uses as listed in Section 202

## **SECTION 905 BULK REGULATIONS**

905.01 DOWNTOWN BUSINESS DISTRICT BULK REGULATIONS. The following regulations apply across the entirety of the Downtown Business District.

905.02 MINIMUM LOT SIZE. Minimum lot area:

- a. Minimum lot area – 1800 square feet
- b. 5000 square feet for single family dwelling units;
- c. 2500 square feet per dwelling unit for two and
- d. multiple family dwelling units
- e. 1 acre for Water Towers

905.03 MINIMUM LOT WIDTH. Minimum lot width:

- a. Minimum lot width – 30'

905.04 MINIMUM LOT SETBACK. Minimum setbacks shall be for buildings, structures, outdoor storage areas and parking areas:

- a. Setback – front 0; side 0; rear 0
- b. Residential – front 10'; side 5'; rear 10'

905.05 MAXIMUM STRUCTURE HEIGHT. Maximum height – 45' for all structures except grain elevators which shall have no maximum height

905.06 MINIMUM PARKING. Required parking

- a. Residential: 2 per dwelling unit
- b. Other: none

## B2 – HIGHWAY BUSINESS

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### User note:

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

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

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### SECTION 1001 PURPOSE AND INTENT

**1001.01 PURPOSE.** The purpose of the B-2 Highway Business District is to: First, increase the level of retail activity near major interchanges; Second, to discourage strip commercial development or spot commercial development along streets and highways so as to minimize traffic hazards to people and property and to avoid conflicts with adjoining uses; Third, to locate all commercial activity so that it is economically feasible to operate a business and to provide goods and services in a convenient, safe, and attractive manner; and, Fourth, to encourage commercial and industrial activity consistent with Menard County as a center of Lincoln's Illinois.

### SECTION 1002 PRINCIPAL USE

**1002.01 PRINCIPAL USES.** The following principal uses are permitted:

1. Accounting/bookkeeping
2. Advertising sales
3. Agricultural implement, sales & repair
4. Agricultural supply store
5. Ambulance service
6. Amusement center/parks
7. Antique stores
8. Appliance repair shop
9. Appliance store
10. Art & school supply store
11. Art gallery, museum
12. Athletic club, indoor
13. Auction house
14. Automobile service station
15. Automobile, truck rental
16. Automobile, truck sales
17. Bakery & donut shops
18. Ballroom, dance hall
19. Bank
20. Barber, beauty shop
21. Blue print/copy shop
22. Boat sales
23. Book, stationery store
24. Bowling, billiard center
25. Bus passenger terminal
26. Business school
27. Campground
28. Candle shops
29. Candy & ice cream shops
30. Car wash
31. Cemeteries/columbarium
32. Churches and other places of public worship
33. Cleaning services, home/ business
34. Clinics
35. Clothing store
36. Clubs, private
37. Collection services
38. Computer data-processing center
39. Convenience stores
40. Dairy store
41. Dance studio
42. Day care centers
43. Delicatessen
44. Dental offices
45. Department store
46. Diaper service
47. Drive-in theaters
48. Drive-in restaurants
49. Drug store
50. Dry cleaners
51. Dry goods store
52. Dwelling units when located above the first story
53. Exterminating pest control

54. Florist shop
55. Funeral parlor/mortuary
56. Fur store/sales
57. Furniture store
58. Garden supply store
59. Gift shop
60. Go cart tracts
61. Golf driving ranges
62. Grain elevator
63. Greenhouse
64. Greeting card shop
65. Gun store
66. Gymnasium
67. Hardware store
68. Health club/spas/reducing salons
69. Hobby, toy store
70. Household goods, sales & repair
71. Indoor or outdoor tennis club
72. Jewelry store
73. Laundry/coin/rental
74. Lawn & landscaping services (may include greenhouse(s), nursery & other associated uses)
75. Leather goods shop
76. Liquor store
77. Lumberyard, building materials storage
78. Mail order store
79. Market, grocery store
80. Miniature golf course
81. Mobile home, recreational vehicle rental and sales
82. Motel, hotel
83. Motion picture theater
84. Motor vehicle parts & accessory sales
85. Motor vehicle repairs, paint shop
86. Motor vehicle sales
87. Motor vehicle storage
88. Music store/records/CD's
89. Night club/bar/tavern
90. Nurseries & greenhouses
91. Nursery school
92. Nursing & retirement homes
93. Office use
94. Optical goods sales
95. Park
96. Parking lot
97. Pet store
98. Photographic studios
99. Photographic supply sales
100. Police station
101. Postal services/shipping/mailing
102. Print shop
103. Public highway & road district facilities
104. Radio, radar site
105. Radio, TV station
106. Real estate services

107. Recreational vehicle sales
108. Restaurants
109. Retail lumber sales
110. Roller rink
111. Rug, floor-covering store
112. Shoe repair shop
113. Shoe store
114. Specialty food store
115. Sporting goods sales
116. Storage; canned or bottled beverages
117. Storage; petroleum products
118. Storage; fiber products
119. Storage; flour, starch & sugar
120. Storage; heavy machinery & equipment
121. Storage; ice
122. Storage; loose or bagged agricultural products
123. Storage; loose or bagged processed food
124. Storage; metal, metal products
125. Storage; non-hazardous chemicals or plastic products
126. Storage; packaged foodstuff
127. Storage; packaged mineral products
128. Storage; package tobacco products
129. Storage; paper, paper products
130. Storage; rolled paper
131. Storage; seeds, beans, nuts & silage
132. Storage; wood products, furniture
133. Supper club
134. Tailor, dress making shop
135. Theater
136. Tobacco shop
137. Towing services
138. Trailer rental and sales
139. Travel bureau
140. Truck stop
141. Variety store
142. Veterinary hospitals
143. Video rental/sales
144. Wallpaper; paint store
145. Warehouse; general
146. Warehouse; mini (with or without dwelling unit for superintendent)
147. Welding service
148. Wholesale distributors

## **SECTION 1003 ACCESSORY USE**

**1003.01 ACCESSORY USES.** The following accessory uses may be provided in connection with the foregoing principal uses:

- a. Off-street automobile parking for employees and customers

- b. Off-street parking for delivery or other vehicles used in the trade or business;
- c. Dumpsters for collection of refuse generated on site
- d. On-premises advertising signs meeting the requirements of Section 1604
- e. Freestanding solar grids meeting the setback requirements of Section 1005.04.

## **SECTION 1004 USES BY SPECIAL USE PERMITTING**

**1004.01 PRINCIPAL USES.** The following principal uses are authorized by Special Use Permit in the B-2 Highway Business District:

- a. Arena, stadium
- b. Race track/motor vehicle
- c. Rifle/pistol ranges, gun clubs
- d. Off premises advertising signs
- e. Water Towers
- f. Single, Two and Multiple Family Dwellings, Modular Homes, and Mobile Homes as defined in Sections 202 and or 1302 (Mobile & Manufactured Home Regulations).
- g. With accessory uses as authorized for permitted uses in this district. Single, two and multiple family dwellings, modular homes, and mobile homes as defined in §6.13 (Mobile & Manufactured Home Regulations) shall not be allowed these accessory uses but shall be allowed those accessory uses allowed for such principal uses in the R-1 and R-3 districts

**1004.02 ACCESSORY USES.** The following accessory uses may be provided in connection with the foregoing special uses:

- a. Off premises advertising signs

## **SECTION 1005 BULK REGULATIONS**

**1005.01 HIGHWAY BUSINESS DISTRICT BULK REGULATIONS.** The following regulations apply across the entirety of the Downtown Business District.

**1005.02 MINIMUM LOT SIZE.** Minimum lot area:

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

**1005.03 MINIMUM LOT WIDTH.** Minimum lot width:

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

**1005.04 MINIMUM LOT SETBACK.** Minimum setbacks shall be for buildings, structures, outdoor storage areas and parking areas:

- a. Front shall be one-half the distance of the necessary right of way of the applicable road, measured from the center of the road, and an additional 50' (If existing right of way is greater than the necessary right of way, the front setback requirement of 50' shall be measured from the existing right of way line)
- b. Side – 10'
- c. Rear – 10'
- d. Minimum structure setback from Illinois Route 97, Illinois Route 123 and Illinois Route 29 or any road designed as a principal arterial in the Menard County Comprehensive Plan shall be one-half the distance of the necessary right of way of the applicable road, measured from the center of the road, and an additional 75' of which 50% shall be landscaped or maintained in a natural state (If existing right of way is greater than the necessary right of way, the front setback requirement of 75' shall be measured from the existing right of way line).

1005.05 MAXIMUM STRUCTURE HEIGHT.

- a. Maximum height: Two story, 30'

1005.06 MINIMUM PARKING. Required parking:

- a. One space/300 square feet of gross floor area
- b. Two for each dwelling unit

## M1 - MANUFACTURING

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### User note:

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

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

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### SECTION 1101 PURPOSE AND INTENT

**1101.01 PURPOSE.** The purpose of the M-1 Manufacturing District is to: First, promote the development of light, non-polluting industry; Second, to foster the promotion and development of locally owned and operated industry; Third, to minimize strip industrial development or spot industrial zoning in the County; Fourth, to locate new industrial areas where direct access can be provided to railroads or major arterials and where such areas are separated from nearby residential and educational uses; and Fifth, to recognize and to promote the development of agriculture as Menard County's oldest and historically most stable, industry.

### SECTION 1102 PRINCIPAL USE

**1102.01 PRINCIPAL USES.** The following principal uses are permitted in the M-1 Manufacturing District:

1. Agricultural implement manufacture, assembly, sales & repair
2. Agricultural supply store
3. Aircraft manufacture & assembly
4. Ambulance service
5. Animal breeding services
6. Appliance repair shop
7. Auction house
8. Bagged mineral production
9. Bakery/wholesale
10. Bicycle manufacture
11. Boat manufacture
12. Cemeteries/columbarium
13. Chemical production
14. Churches & other places of public worship
15. Cleaning services, home/business
16. Coal storage
17. Contractor's shop
18. Cordage, rope, twine & net manufacture
19. Cotton, spinning & weaving
20. Dairy products manufacture
21. Diaper service
22. Distilling, rectifying, blending spirits
23. Drugs, pharmaceutical manufacture
24. Electrical & electronic machinery manufacture
25. Electrical appliance manufacture
26. Exterminating pest control
27. Extraction, loading, storage, washing & hauling of sand, gravel & topsoil
28. Fish hatcheries
29. Food locker plants
30. Footwear manufacture
31. Furniture repair/woodworking
32. Furniture, fixture, bedding manufacture
33. Gas company plants & facilities
34. Glass manufacture
35. Grain elevator
36. Greenhouse
37. Heating, physical plant
38. Indoor/outdoor tennis club
39. Instrument manufacture
40. Jewelry manufacture
41. Laboratory
42. Laundry/coin/retail
43. Laundry/commercial
44. Leather goods shop
45. Linen supply house
46. Liquor store
47. Lumberyard, building materials storage
48. Machinery manufacture
49. Manufacture of grain mill products
50. Manufacture of products from cork or wood
51. Manufacture of products from plastic
52. Manufacture of products from processed fur

53. Manufacture of products from processed leather
54. Manufacture of transport equipment, component parts only
55. Metal products manufacture
56. Motel, hotel
57. Motor vehicle manufacture & assembly
58. Motor vehicle repairs, paint shop
59. Motor vehicle storage
60. Musical instrument manufacture
61. Newspaper, magazine printing and publishing
62. Nurseries & greenhouses
63. Photographic, optical goods manufacture
64. Plastic & plastic products manufacture
65. Postal services/shipping/mailling
66. Pottery, China, earthenware manufacture
67. Print shop
68. Radio, radar site
69. Radio, TV station
70. Rail terminal
71. Recreational vehicle sales
72. Restaurant supplies & services manufacture and sales
73. Restaurants
74. Retail lumber sales
75. Rubber, rubber products manufacture
76. Shoe repair shop
77. Shoe store
78. Snack food manufacture
79. Soft drink, carbonated water industry
80. Sporting goods manufacture
81. Storage; canned or bottled beverages
82. Storage; petroleum products
83. Storage; fiber products
84. Storage; flour, starch & sugar
85. Storage; heavy machinery & equipment
86. Storage; ice
87. Storage; loose or bagged agricultural products
88. Storage; loose or bagged processed food
89. Storage; metal, metal products
90. Storage; non-hazardous chemicals or plastic products
91. Storage; packaged foodstuff
92. Storage; packaged mineral products
93. Storage; packaged tobacco products
94. Storage; paper, paper products
95. Storage; rolled paper
96. Storage; seeds, beans, nuts & silage
97. Storage; wood products, furniture
98. Supper club
99. Tailor, dress making shop
100. Textile manufacture; absent of any dye process
101. Toys, sporting goods manufacture

102. Trailer/mobile home/recreational vehicle rental and sales
103. Truck freight terminal
104. Truck stop
105. Truck terminal
106. Warehouse; general
107. Warehouse; mini (with or without dwelling unit for superintendent)
108. Watch, clock manufacture
109. Wearing apparel manufacture
110. Welding service
111. Well drilling
112. Wholesale distributors
113. Wooden, cone containers manufacture
114. Wool, worsted; spinning & weaving

## **SECTION I I03 ACCESSORY USE**

1103.01 ACCESSORY USES. The following accessory uses may be provided in connection with the foregoing principal uses:

- a. Off street automobile parking for employees and customers
- b. Off street parking for delivery or other vehicles used in the trade or business
- c. Dumpsters for collection of refuse generated on site
- d. Open outside storage in fenced or screened areas containing not more than 25% of the lot area
- e. Incidental sales of goods manufactured or assembled on site
- f. On premise advertising signs meeting the requirements of Section 1604

## **SECTION I I04 USES BY SPECIAL USE PERMITTING**

1104.01 PRINCIPAL USES. The following principal uses are authorized by Special Use Permit in the M-1 Manufacturing District:

- a. Airport, heliport
- b. Arena, stadium
- c. Asphalt batch plant
- d. Automobile salvage yard

- e. Concrete batch plant
- f. Junk yards
- g. Rifle/pistol ranges/gun clubs
- h. Sanitary landfill
- i. Off premises advertising signs
- j. Water Towers
- k. Data Centers (see SECTION 1532 for additional regulations)
- l. Battery Energy Storage Systems (see APPENDIX H for additional regulations)

1104.02 ACCESSORY USES. With accessory uses as authorized for special permitted uses in the district provided, however, no on premises signs shall be permitted as an accessory use to an off-premises advertising sign.

## **SECTION 1105 BULK REGULATIONS**

1105.01 HIGHWAY BUSINESS DISTRICT BULK REGULATIONS. The following regulations apply across the entirety of the Highway Business District.

1105.02 MINIMUM LOT SIZE. Minimum lot area:

- a. Minimum lot area: 1 acre

1105.03 MINIMUM LOT WIDTH. Minimum lot width:

- a. Minimum lot frontage – on a public street measured at the front setback line 200’

1105.04 MINIMUM LOT SETBACK. Minimum setbacks shall be for buildings, structures, outdoor storage areas and parking areas:

- a. Front 50’
- b. Side 50’
- c. Rear 50’
- d. Minimum structure at setback from any road designated as a principal arterial in the Menard County Comprehensive Plan – 75’ of which 50% shall be landscaped

1105.05 MAXIMUM STRUCTURE HEIGHT.

- a. Maximum height – Three story – 45’

1105.06 MINIMUM PARKING. Required parking:

- a. Minimum parking – One space/300 square feet of floor area

## PL – PUBLIC LANDS

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### User note :

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

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

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### SECTION 1201 PURPOSE AND INTENT

**1201.01 PURPOSE.** The purpose of the P-L Public Lands district is to promote the development of those land uses, which serve the general public as recreational, religious, educational, or psychological resources, while protecting existing public lands from incompatible developments.

### SECTION 1202 PRINCIPAL USE

**1202.01 PRINCIPAL USES.** The following principal uses are permitted:

1. Amusement Center/Parks
2. Arena/stadium
3. Auditorium/amphitheaters
4. Business schools
5. Camp grounds
6. Churches and other place of public worship
7. College, university
8. Convention center
9. Country clubs & private golf courses
10. Courthouse
11. Dormitory residence hall
12. Electric power plants & substations
13. Fairgrounds
14. Fieldhouse
15. Fire station
16. Golf course, public
17. Gymnasium
18. Hospital
19. Junior college classroom building
20. Mental health facilities
21. Municipal building
22. Planetarium
23. Postal services/shipping/mailing
24. Race track/motor vehicle

25. Recreation center
26. School administrative offices
27. School bus garages and/or repair shops, public transit garages
28. Telephone exchange
29. Vocational school
30. Water filtration/treatment plants & elevated & underground storage tanks
31. Welfare agency
32. Zoo

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

- a. Off street automobile parking for employees and customers
- b. Off street parking for delivery or other vehicles used in the trade or business
- c. Dumpsters for collection of refuse generated on site
- d. Open outside storage in fenced or screened areas containing not more than 25% of the lot area
- e. On premises advertising signs meeting the requirement of Section 1604

### SECTION 1203 ACCESSORY USE

**1203.01 ACCESSORY USES.** The following accessory uses may be provided in connection with the foregoing principal uses:

- a. Private Wind Energy Conversion System

## **SECTION 1204 USES BY SPECIAL USE PERMITTING**

1204.01 PRINCIPAL USES. The following principal uses are authorized by Special Use Permit:

- a. Correctional institutions, detention centers & rehabilitation centers
- b. Sanitary landfills

## **SECTION 1205 BULK REGULATIONS**

1205.01 PUBLIC LANDS DISTRICT BULK REGULATIONS. The following regulations apply across the entirety of the Public Lands District:

1205.02 MINIMUM LOT SIZE. Minimum lot area:

- a. Minimum lot area: none

1205.03 MINIMUM LOT WIDTH. Minimum lot width:

- a. Minimum lot width: none

1205.04 MINIMUM LOT SETBACK. Minimum setbacks shall be for buildings, structures, outdoor storage areas and parking areas:

- a. Setbacks: none except Private Wind Energy Conversion Systems shall be setback not less than 1.1 times the tower height from the necessary road right away of a public road (as measured from the center of the public road pavement), overhead utility transmission lines, communications towers, and adjacent property lines.

1205.05 MAXIMUM STRUCTURE HEIGHT.

- a. Maximum height: none

1205.06 MINIMUM PARKING. Required parking:

- a. Required parking: none

## MOBILE / MANUFACTURED HOMES

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### User note:

*About this chapter: The purpose of this section is to establish the requirement and procedures for the management of mobile homes, manufactured homes structures, and pre-owned manufactured homes and similar vehicular equipment designed for use as a storage, living, or business quarters that have been allowed to deteriorate to the point of constituting a safety and health condition.*

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### SECTION 1301 RESPONSIBILITY FOR ENFORCEMENT

**1301.01 ENFORCEMENT.** The responsibility for enforcement of this Ordinance is hereby assigned to the Menard County Zoning Administrator who is hereby authorized and directed to conduct and or delegate such inspections in the manner permitted by the laws of the state as are necessary to ascertain compliance or violation of this ordinance. The Zoning Administrator shall have the authority to appoint a designee, at his/her discretion, to assist in the enforcement of the Ordinance. Nothing in this section is or shall be construed to limit the authority of any other official of the County, including without limitation the County Board of Menard County to observe and report violations of this Ordinance during the course of conduct and within the scope of official duties.

### SECTION 1302 CONDITIONS

**1302.01 GENERAL.** It is unlawful for any person to rent, sell, or offer for sale within this State any mobile home manufactured **after July 1, 1974**, or any manufactured housing unit (double-wide) manufactured **after July 1, 1976, unless such mobile home or manufactured housing unit bears a seal issued by the Department and a certification by the manufacturer or dealer, that the mobile home manufactured housing unit complies with applicable safety code. 430 ILCS 115/3**

**1302.02 PRE HUD.** No person shall sell, install, or bring into unincorporated Menard County mobile homes pre-dated of July 1, 1974 (IL mobile structure) or a manufactured unit pre-dated dated June 15, 1976 (pre-Hud) for occupancy, business, or storage purposes.

**1302.03 TITLE, CODE COMPLIANT, 15 YEAR RESTRICTION.** No Dependent mobile home, manufactured home, mobile home, or modular home may be sold, installed, or brought into

unincorporated Menard County without a title, Code Compliant Certificate, and serial number. No pre-owned manufactured or mobile home older than twelve (12) years from the current date shall be brought into unincorporated Menard County.

**1302.04 MOBILE HOMES ON INDIVIDUAL LOTS IN PERMITTED AREAS.** No person shall place any manufactured home on an individual lot (as opposed to a manufactured home park) except in conformity with the Manufactured Housing Code.

**1302.05 MANUFACTURED HOME PARKS.** After the effective date of this Code, no manufactured home park shall be established except in conformity with the Manufactured Home Code.

**1302.06 PERMANENT LOT SIZE.** No manufactured home or pre-owned mobile home shall be placed for permanent habitation on an area containing less than 7,200 square feet, provided that if zoning regulations are subsequently adopted, such area or lot size shall conform to the related minimum lot size prescribed for the zoning district in which the manufactured home is located.

**1302.07 TEMPORARY LOT SIZE.** No manufactured home or pre-owned mobile home for temporary habitation shall be placed on an area containing not less than 3,000 square feet.

**1302.08 DEAD STORAGE.** Mobile homes or pre-existing mobile homes used for "dead storage" shall still be required to meet the minimum health and safety standards as defined in Section 1(g).

**1302.09 TIE DOWN ACT.** The Illinois Mobile Home Tiedown Act [210 ILCS 120] requires all manufactured homes that are moved or set up on site after January 1, 1980 to be tied down in accordance with rules promulgated by the Illinois Department of Public Health. It is the homeowner's responsibility to ensure that the home is tied down within 30 days after the home is installed.

1302.10 INSTALLATION. All manufactured homes or mobile homes installed after December 31, 2001 shall be installed by a Illinois licensed manufactured home installer. Nothing in this Ordinance shall be construed to require a person who installs a new or used manufactured home on his or her own property outside of a mobile home park as defined in the Mobile Home Park Act [210 ILCS 115] to acquire an installer's license. Such individual also waives any rights under the Act as a result of not using a licensed installer.

## **SECTION 1303 MINIMUM HEALTH AND SAFETY STANDARDS**

1303.01 GENERAL. No person shall occupy for the purpose of living within a home which does not comply with the following requirements before being issued a certificate of occupancy by the Code Official and:

1303.02 HUD CODE. Every new manufactured and pre-owned manufactured home located in the jurisdiction shall be in compliance with the Federal Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. 5401-5445 and shall not have been altered in such a way that the home no longer meets the code.

1303.03 STATE STATUTE COMPLIANCE. Every new manufactured and pre-owned manufactured home located in the jurisdiction shall be in compliance and enforced with the Illinois Department of Public Health and the State of Illinois requirements as listed below:

1. Manufactured Home Quality Assurance Act [430 ILCS 117]
2. Illinois Mobile Home Tiedown Act [210 ILCS 120]
3. Illinois Manufactured Housing and Mobile Home Safety Act [430 ILCS 115]
4. Abandoned Mobile Home Act [210 ILCS 117]
5. Mobile Home Park Act [210 ILCS 115]

1303.04 STRUCTURAL CONDITIONS. Pre-owned interior condition. Every floor, interior wall, and ceiling shall be in sound condition. The floor system shall be in sound condition and free of warping, holes, water damage, or deterioration. Doors and windows shall be operable, watertight and in good working condition.

1. The exterior of all new manufactured homes

and pre-owned manufactured homes shall be free of loose or rotting boards or timbers and any other conditions that might admit rain or moisture to the interior portions of the walls or to occupied spaces. The exterior siding shall be free of rot and rust. Roofs shall be structurally sound and have no obvious defects that might admit rain or cause moisture to collect on the interior portion of the home.

2. Sanitary facilities. Every plumbing fixture, water, and waste pipe of a new manufactured home and pre-owned manufactured home shall be in sanitary working condition when properly connected, and shall be free from leaks and obstructions. Each home shall contain a kitchen sink. Each bathroom shall contain a lavatory and water closet. At least one bathroom shall contain a tub and/or shower facilities. Each of these fixtures shall be checked upon being connected to ensure they are in good working condition.
3. Primary Heating systems. Heating shall be safe and in working condition.
4. Electrical systems (switches, receptacles, fixtures, etc.) shall be properly installed and wired and shall be in working condition. Distribution panes shall be in compliance with the approved listing, complete with required breakers, with all unused openings covered with solid covers approved and listed for that purpose. (2014 NEC, Article 550). Each new manufactured and pre-owned manufactured home shall contain a water heater in safe and working order. No aluminum wire allowed. {2014 NEC 550.15}
5. Hot water supply. Each home shall contain a water heater in safe and working condition.
6. Egress windows. Each bedroom of a manufactured home shall have at least one (1) operable window of sufficient size to allow egress.
7. Ventilation. The kitchen in the home shall have at least one operating window or other ventilation device. There shall be adequate ventilation in all bathrooms.
8. Smoke detectors. Each new and pre-owned manufactured home shall contain one

operable battery- operated smoke detector in each bedroom and in the kitchen, which must be installed in accordance to the manufacturer's instructions.

9. Steps and landings. Steps and landings are required for all new or pre-owned manufactured homes at an egress door. Loose or/and stacked steps are strictly prohibited. If the landing is over thirty (30") inches from the ground then handrails and guardrails are required.
10. Skirting. Installation of skirting shall be required. Permanent placement installations will require a block or masonry foundation. Installation shall be in accordance with the manufacturer's instructions. Temporary placement requires acceptable materials such as masonry, stone, fiberglass, simulated brick or stone, vinyl, or other materials for the purpose of skirting.

## **SECTION 1304 MANUFACTURED HOME PARKS**

Proposed manufactured home parks/communities shall be in strict compliance with the Illinois Mobile Home Park Act [210 ILCS 115/1] *et seq.* Section 7. Dependent mobile homes, portable sheds, pole barns, sheds, railroad cars, and containers

## **SECTION 1305 REGISTRATION AND MOVING**

**1305.01 REPORTING AND PERMITTING.** Every person, firm, corporation, or other entity holding title to or possessing a new manufactured home and pre-owned manufactured home which is placed or located within the jurisdiction of Menard County shall report the location of the home to the Supervisor of Assessments. When moving, selling, or renting a previously permitted manufactured home under this Ordinance, regardless if the destination is within or outside of Menard County, applicant shall obtain a permit from the Zoning Administrator prior to moving.

**1305.02 TIE-DOWN REQUIREMENT.** The Illinois Mobile Home Tiedown Act [210 ILCS 120] requires all manufactured homes that are moved or set up on site after January 1, 1980 to be tied down in accordance with rules promulgated by the Illinois Department of Public Health. It is the homeowner's responsibility to ensure that the home

is tied down within 30 days after the home is installed. There are no mandatory requirements for the installers of anchoring equipment but the Zoning Office recommends that a certified manufactured home installer be used. Homeowners may do their own installation. Anyone that installs tie-down equipment must comply with the requirements of the Manufactured Home Tiedown code.

## **SECTION 1306 TEMPORARY HABITATIONS OF MORE THAN TWO MONTHS**

**1306.01 GENERAL.** Each manufactured home, new or pre-owned for permanent habitation, two (2) months or more, must be an independent manufactured home and immobilized as provided in Section 1305.02. It must also have a means of disposal of waste water as provided for in Section 1306.02.

**1306.02 IMMOBILIZATION AND WASTE REMOVAL.** Each manufactured home, new or pre-owned either dependent or independent for temporary habitation, less than two (2) months, need not be immobilized as provided in Article I, Section 1 but must have a means of disposal of wastes which creates neither a nuisance nor a menace to health. The relocation of less than one-eighth (1/8) of a mile of a manufactured home for temporary habitation by the same occupant from its original location shall not be considered a new location for the purpose of determining the limitation of less than two (2) months.

**1306.03 PERMITS.** Permits are required for mobile homes that are to be occupied with the exception of those situations permitted under Section 1306.05.

**1306.04 COMPLIANCE.** Occupied mobile homes subject to permit requirements must show evidence of compliance with federal HUD regulations or applicable State law.

**1306.05 CRITERIA FOR APPROVAL.** Permits and annual renewals may be approved by the Zoning Administrator and or the Zoning Board of Appeals as a Special Use Permit with criteria as follows:

1. Medical care or assistance: Permits may be renewed annually provided a doctor's certification is provided indicating assistance is still required

2. New home construction or repair: Special Use permitting may be issued for a period of up to one (1) year, and may be extended by the Menard County Zoning Administrator by six (6) months if the applicant shows adequate progress in construction
3. Permits may be rescinded by the Menard County Zoning Administrator for failure to conform to this ordinance
4. Mobile homes must be removed from the zoning lot within sixty (60) days of notice of the rescinded or expired permit, unless otherwise allowed by ordinance
5. Permits for a temporary mobile home must be renewed annually or as stated above. The Menard County Zoning Administrator may extend permits beyond the one (1) year and six (6) month limit as stated in Section 1306.05. When the permit expires or when occupants of the trailer or mobile home do not meet the conditions set forth above, the trailer or mobile home must be removed within sixty (60) days
6. Fees:
  - 1) Permit application form must be accompanied by a fee set by the Menard County Board, not refundable
  - 2) An annual fee set by the Menard County Board will be required on or before the renewable date stated on the approved permit

**1516.06 AFFIDAVIT REQUIREMENT.** That all applications for a permit be accompanied by an affidavit, stating as follows:

1. Names and addresses of occupants
2. Location of use
3. Description of trailer
4. Reason for application

Statement that a change in usage, name or number of occupants, location, will be reported to the Zoning Office immediately.

## **SECTION 1307 PERMITTING, INSPECTIONS, CERTIFICATE OF OCCUPANCY AND FEES**

**1307.01 PERMITTING.** To obtain a permit, applicants shall provide the Zoning Administrator with the following:

1. Permit or letter issued by the Sangamon County Health Department that application was made for a waste disposal system or

documentation of the existing system to be in working order.

2. An affidavit signed by the applicant that the pre-owned manufactured home meets health and safety standards as defined in Section 1516.06.
3. A drawing of the lot, showing the lot size, and planned location of the structure.
4. 9-1-1 address is required for the location of the manufactured home.
5. A copy of original sales invoice or title to the manufactured home. (The invoice or title must show the year, make and/or model, square footage, and serial number of home).
6. Proof the structure meets the standards established under the National Manufacturing Housing Construction and Safety Act, 42 U.S.C. 5401-5445 (HUD Code).
7. Description of foundation and Tiedown in accordance with section 1303.04 requirements.
8. Copy of the mobile home title or bill of sale from manufacturer.
9. Fee. A permit fee shall be charged to the applicant to cover the cost to the County to process the permit applicant and subsequent inspections.
10. Inspections. Upon receipt of a permit, applicants may relocate the manufactured home on a residential site for the purposes of inspection. Applicant shall arrange for all required inspections. It is the responsibility of the property owner to call the Zoning Administrator office to schedule the mandatory inspections.
11. Certificate of Occupancy. A Certificate of Occupancy shall be issued to the applicant at such time that the Code Official certifies that the requirements of the Ordinance have been met. No structure may be occupied until a Certificate of Occupancy is issued.
12. Expiration. Permits issued are active for **180 days**, after the expiration date a new permit will be required.

## **SECTION 1308 PLACEMENT OF MOBILE AND MANUFACTURED HOMES**

**1308.01 PLACEMENT.** When placing a mobile home dwelling unit in Menard County, the following requirements and standards must be met:

Double-wide Mobile & Manufactured Home:

- 1) Minimum of a double-wide (multi-sectional) in the Rural Residential, B-1 Downtown Business District, and B-2 Highway Business District.
- 2) Constructed and/or manufactured within 15 years prior to the application for zoning permit
- 3) Pitched roof
- 4) Tongue, hitch, and wheels removed
- 5) Skirting in place, with no visible holes or gaps between grade and mobile/manufactured home
- 6) Occupied mobile homes must be placed on piers having depth below the frost line
- 7) Any stairs, decks, or other “add-ons” must comply with Menard County building regulations
- 8) Mobile/Manufactured home shall be tied/anchored down
- 9) Have a minimum 500 square feet of inside living area exclusive of any decks and porches and be suitable for occupancy for one or more persons
- 10) Comply with the applicable ordinances within the municipality in which the mobile home is to be located which regulate or otherwise provide for conditions regarding placement of a mobile home and/or trailer coach dwelling unit within the corporate limits of such municipality

Single-wide Mobile & Manufactured Home:

- 1) Constructed and/or manufactured within 15 years prior to the application for zoning permit
- 2) Tongue, hitch, and wheels removed
- 3) Skirting in place, with no visible holes or gaps between grade and mobile/manufactured home

- 4) Occupied mobile homes must be placed on piers having depth below the frost line
- 5) Any stairs, decks, or other “add-ons” must comply with Menard County building regulations
- 6) Mobile/Manufactured home shall be tied/anchored down
- 7) Have a minimum 450 square feet of inside living area exclusive of any decks and porches and be suitable for occupancy for one or more persons
- 8) Comply with the applicable ordinances within the municipality in which the mobile home is to be located which regulate or otherwise provide for conditions regarding placement of a mobile home and/or trailer coach dwelling unit within the corporate limits of such municipality

**1308.02 REPLACEMENT.** The following regulations apply when replacing an existing mobile home in Menard County:

- 1) An existing single-wide, in any zoning district, may be replaced with a single-wide of equal or larger size and must meet the applicable regulations of section 1308.01
- 2) Single-wide’s replaced with double-wide’s must meet the applicable regulations of section 1308.01
- 3) An existing double-wide may be replaced with a double-wide of equal or larger size and must meet the applicable regulations of section 1308.01
- 4) Setback standards shall not be required to be met if the replacement mobile home is being relocated where existing utilities have been previously established, e.g., septic, and well systems
- 5) Complete any forms as required by this code and submit any required fees

**1308.03 SETBACK.** No mobile home, manufactured home, modular home, or other structure shall be constructed, established, or maintained which does not conform to the following setbacks:

- a. No structure shall be located closer than thirty-five feet (35') from the road-right-of way of any street or public road.
- b. No structure shall be located closer than fifteen feet (15') from the property line in

the rear and sides of the lot, tract, or parcel of land for residential use.

## **SECTION 1309 DISPOSITION OF NON-HABITABLE OR ABANDONED HOMES**

**1309.01 NON-HABITABILITY.** Effective as of the date of this Ordinance, any owner of a pre-dated mobile home or manufactured home or property owner that signs an *Affidavit of Non-Habitability* with the Supervisor of Assessments must remove the structure from Menard County or otherwise be disposed of in a legal manner within ninety (90) days of the date the of the signed Affidavit.

**1309.02 ABATEMENT.** Any pre-dated mobile home or manufactured home determined to be lawfully removed pursuant to [210 ILCS 117/] of the *Illinois Safety Act, Abandoned Mobile Home Act*, or pursuant to Illinois Counties Code 55 ILCS 5/5 - 1121, or under an Order of Abatement issued by a court of competent jurisdiction may be disposed of by the County or the County authorized person or entity having custody of the mobile home or other structures pertaining to this Ordinance. Disposition of such mobile home/structures may be carried out in compliance with any applicable recycling program and/or ordinances, and shall not occur until at least thirty (30) calendar days following the probable cause hearing.

**1309.03 DEMOLITION PERMIT.** It shall be unlawful for the registered owner or person entitled to possession of a mobile or manufactured home and for the owner, lessee, or occupant of the real property upon which the home is located to demolish, burn, deconstruct, or scrap in a non-legal manner. Before a mobile or manufactured home may be demolished, scrapped, deconstructed, or recycled, the registered owner or person entitled to possession of a mobile or manufactured home and for the owner, lessee, or occupant of the real property upon which the home is located first must obtain the proper permits from the Menard County Code Administrator.

## **SECTION 1310 VIOLATION-PENALTY AND ENFORCEMENT**

**1310.01 FINES.** Any person, firm, or corporation, who violates, disobeys, or willfully fails to comply with any of the provisions of this Ordinance shall be subject to a fine of no less than \$50.00 up to \$750.00

for each violation. Each day that such violation exists shall constitute a separate offense.

**1310.02 FAILURE TO REMOVE.** Failure to remove a pre-owned manufactured home or any other structure from the jurisdiction upon failure to receive a Certificate of Occupancy or have been cited as a nuisance shall be fined \$500.00. Each day that such violation exists shall be considered a separate offense.

**1310.03 COUNTY BOARD AUTHORITY.** The Board of Menard County may exercise their powers to recover the cost incurred of the demolition, repair, enclosure, or removal of dangerous and unsafe structures or uncompleted and abandoned mobile homes, manufactured homes, and other structures in the Ordinance; by placing a lien on the real estate. Court costs shall be included in the lien and said lien shall be recorded with the Menard County Recorder of Deeds.

## **SECTION 1311 EXCEPTIONS.**

**1311.01 GENERAL.** The provisions of this Ordinance shall not apply to mobile homes that are actively being used for residential purposes; provided that the mobile home has been properly permitted and is being operated in a lawful manner, including but not limited to, operation so as not to constitute a public nuisance.

**1311.02 APPLICATION.** The restrictions as provided in this Ordinance shall not apply to any mobile, manufactured, or modular home in existence on the effective date of this Ordinance; provided, however, that such nonconformance shall continue to exist only during the life of such existing mobile home, manufactured home, residential pole barn or modular home. Nothing in this section shall be construed to permit or authorize any existing mobile homes, manufactured home, residential pole barn or modular homes to be maintained in violation of any housing or fire protection codes or statutes now existing or hereinafter enacted the County of Menard, State or Federal government.

**1311.03 EXEMPTIONS.** All existing mobile, manufactured, residential pole barn or modular home shall be exempt from compliance with this Ordinance so long as they remain in their existing locations. If such mobile, manufactured, modular homes or portable buildings are removed from their existing locations, replacement units may be so installed only if in compliance with this Ordinance, State statutes, and Federal regulations.

1311.04 RESTRICTIONS. Occupied mobile homes utilized for the following purposes may be located in agricultural and Rural residential districts subject to the following restrictions:

- A. Medical Care Assistance: - Special Use Permit req.
  - 1) Limited to one (1) per zoning lot provided the individual occupying the mobile home provides medical care or assistance to the occupant of the primary residence on the same zoning lot; and
  - 2) That the zoning lot on which the mobile home and principal residence to which it is accessory are located, must be of sufficient size to provide a lot area of at least 130,000 sq. ft. for each dwelling unit, and
  - 3) Shall comply with all zoning and special use permit requirements and fees of the county.
- B. Temporary Housing: - Special Use Permit req.
  - 1) Limited to one (1) per zoning lot provided the individuals residing in said temporary housing will be the future occupants of a home to be repaired or constructed on the same zoning lot,
  - 2) Mobile homes serving as temporary housing for the repair or re-construction of a Farm Residence are exempt from all zoning regulations and permit fees except those fees and permits as may be required per the County's Floodplain Regulations and fees, and the setback standards of the A-1 district.
- C. Ag Labor Housing:
  - 1) Where the occupant is an individual, whose employment is related to agricultural activities on the same zoning lot the mobile home is exempt from all zoning regulations and permit fees except those fees and permits as may be required per the County's Floodplain Regulations and the setback standards of the A-1 district. In addition, the zoning lot on which the mobile home and principal residence to which it is accessory are located must be of sufficient size to provide a lot area of at least 130,000 sq. ft. for each dwelling unit

D. ECHO Housing: - Special Use Permit req.

- A. One manufactured home is permitted on a separate ground area of not less than five acres in an A-1 Agricultural District. Current health codes must be met.
- B. The following purpose is served:
  - 1) To permit adult offspring to provide small temporary residences for their aging parents who are in need of support while maintaining independence
  - 2) To permit families to provide security and support for nonelderly relatives with serious health problems or physical disabilities
  - 3) To reduce the degree to which frail elderly homeowners have to choose between increasing isolation in their own homes and institutionalization in nursing homes
  - 4) To develop housing types in single-family neighborhoods that are appropriate for households at a variety of stages in the life cycle
  - 5) To permit E.C.H.O. housing in a manner that protects the property values and single-family character of neighborhoods by ensuring that the units are compatible with the neighborhood and are easily removed

1311.05 E.C.H.O. PERMIT REQUIREMENTS. A temporary use permit must meet the following requirements for Temporary E.C.H.O. or Elderly Cottage Housing Opportunities:

- 1) There can only be one (1) E.C.H.O. housing unit located on each parcel
- 2) The E.C.H.O. housing unit must comply with all setbacks within the respective zoning districts
- 3) The E.C.H.O. housing unit must not exceed one thousand-two hundred (1,200) square feet of living space with not more than two (2) bedrooms
- 4) The E.C.H.O. housing unit must be compatible with the surrounding area
- 5) The E.C.H.O. housing unit must be an attached or detached pre-manufactured home with a removable foundation or a mobile home
- 6) Each E.C.H.O. housing unit may have one (1) parking space

- 7) The owner of the principal residence and at least one occupant of the E.C.H.O. unit must be related by blood, marriage, or adoption.
- 8) The owner(s) of the principal residence and lot must live in one of the dwelling units on the lot. No more than two occupants shall reside in an E.C.H.O. unit
- 9) In order to be eligible for E.C.H.O. housing, at least one of the occupants of the E.C.H.O. unit must be over sixty-two (62), or unable to live independently because of mental or physical disabilities. All disabled occupants must submit a letter from a physician verifying the disability and stating the projected duration of the disability
- 10) The principal owner of the property must annually submit an affidavit to the Zoning Administrator, verifying that the unit is still occupied by the eligible resident(s). Once the unit is no longer occupied by the eligible resident(s), the principal owner has six (6) months to remove the unit from the property. If the unit is not removed within six (6) months, the Menard County Zoning Department may remove the structure. The principal owner of the property will be held financially liable for the cost

- 11) If the principal owner has not cleared debts within thirty (30) days of notification, a lien may be placed against the property

## **SECTION 1312 MEANS OF APPEALS**

1312.01 APPEALS. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted there under have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. If a written appeal is not received within the specified period, the actions of the County Code Administrator regarding the Notice of Violation shall stand.

## PLANNED UNIT DEVELOPMENT

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### User note:

**About this chapter:** *The Planned Development concept is intended to afford both the developer and the County considerable flexibility in formulating development proposals. A Planned Development is a parcel or tract of land having an area as herein required, initially under unified ownership or control, and which is intended to be the site for two or more principal uses, or one principal building for two or more principal uses, within which allowable exceptions in the district regulations are specified.*

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### SECTION 1401 PLANNED UNIT DEVELOPMENT

#### 1401.01 PLANNED DEVELOPMENT DEFINED.

As used in this Article, the term —planned development or —PD means a development wherein, in accordance with an approved development plan:

1. Common open space is reserved;
2. Various housing types and other structures and uses may be mixed and/or limit.
3. Overall average density does not exceed the usual zoning district

1401.02 OBJECTIVES. This Article authorizes development of Planned Developments and establishes procedures in order to achieve the objectives enumerated in Section 1-1-2 and the following objectives:

1. To provide a regulatory mechanism whereby the County can be assured that upon completion, approved development projects will substantially conform to the plans or models which constituted the basis for the issuance of the necessary zoning and subdivision permits
2. To permit development of a wide variety of housing types and other structures and uses in a single comprehensively planned project
3. To preserve the natural topography, scenic features, mature trees, and historic structures existing on sites proposed for development
4. To encourage innovative site layouts and coordinated architectural treatment of different housing types and other structures;
5. To ensure the provision of usable, common, open space in planned developments, and to spur installation of various amenities therein
6. To facilitate the economical installation of standard streets, sewers, utilities, and other improvements

1401.03 COMPLIANCE WITH REGULATIONS GENERALLY REQUIRED. Except as specifically provided otherwise in this Code, planned

developments—including all structures and uses therein—shall, at a minimum, be built in conformity with all applicable codes and ordinances, including the Zoning Code and the Subdivision Code.

1401.04 DISTRICTS WHERE ALLOWED. Planned Developments may be built in any Zoning District, but only upon the issuance of a special-use permit by the County Board after a hearing before the Board of Appeals. (See Section 1801)

1401.05 PERMISSIBLE DEVIATION FROM CODE REQUIREMENTS. The Planned Development concept is intended to afford both the developer and the County considerable flexibility in formulating development proposals. Consequently, to the extent indicated in this section, Planned Developments may deviate from generally applicable Code requirements without a variance. Any proposed deviation not listed below, however, shall require a variance.

- A. Mixed Uses. Planned Developments may include all types of residential structures and any other uses approved by the Board of Appeals, provided that in approving such mixed uses, the Board of Appeals may attach any conditions necessary to protect the public welfare
- B. Lot and Structure Requirements. In Planned Developments, the Board of Appeals may approve any reasonable deviation from the lot and structure requirements of the particular zoning district so long as the different uses within the PD are appropriately interrelated and property abutting the PD is adequately protected from any potential adverse impacts of the development. —Lot and structure requirements mean minimum individual lot area, width, and depth; minimum setbacks; and maximum structure height
- C. Accessory Uses. In PDs the Board of Appeals may allow the developer to disregard the usual restrictions on accessory

uses other than the prohibition against using an accessory structure as a dwelling.

- D. Location of Parking/Loading Spaces. By permission of the Board of Appeals, off-street parking and loading spaces in PDs need not be located in accordance with generally applicable requirements. The minimum number of such spaces, however, shall not be less than the number required as per Section 306 of this Code

## **SECTION 1402 PROCEDURAL REQUIREMENTS**

**1402.01 PROCEDURES FOR PLANNED DEVELOPMENTS.** Every applicant for Planned Development approval shall comply with the procedural requirements of this Section. The required procedures are as follows:

1. Filing development plan with the Zoning Administrator
2. Review of plans by Plan Commission, if any
3. Provision by the developer of adequate assurance for the completion of required improvements as per the development plan and subdivision regulations
4. Recommendation by Plan Commission; if any
5. Public hearing by the Board of Appeals as per the requirements of Article X
6. Recommendation of the Board of Appeals regarding approval/ rejection of the development plan
7. Recording of development plan with the County Recorder of Deeds
8. Approval of County Board

## **SECTION 1403 APPLICATION SUBMISSION**

**1403.01 APPLICATION; INFORMATION REQUIRED.** Every applicant for approval of a development plan shall submit to the Zoning Administrator, in narrative and/or graphic form, the items of information listed below:

- A. Written Documents.
1. Legal description of the total site proposed for development
  2. Names and addresses of all owners of property within or adjacent to the proposed Planned Development
  3. Statement of the planning objectives to be achieved by the PD through the particular approach proposed by the applicant, including a description of the

character of the proposed development, the rationale behind the assumptions and choices made by the applicant

4. Development schedule indicating the approximate date when construction of the PD or stages of the PD can be expected to begin and to be completed
  5. Statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the PD, such as land areas, dwelling units, etc.
  6. Data indicating:
    - a) Total number and type of proposed dwelling units
    - b) Gross and net acreage of parcel
    - c) Acreage of gross and usable open space
    - d) Area of any commercial uses
- B. Graphic Materials.
1. Existing site conditions, including contours at **ten (10) foot** intervals and locations of watercourses, flood plains, unique natural features, and wooded areas
  2. Proposed lot lines and plot designs
  3. Proposed location, size in square feet and general appearance of all existing and proposed buildings (both residential and non- residential) and other structures and facilities
  4. Location and size in acres or square feet or all areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and similar public and semi-public uses
  5. Existing and proposed vehicular circulation system, including off-street parking and loading areas and major points of ingress and egress to the development (notations of proposed ownership--public or private--should be included where appropriate)
  6. Existing and proposed pedestrian circulation system, including its relationship to the vehicular circulation system and proposed treatments of points of conflict
  7. Existing and proposed utility systems, including sanitary sewers, storm sewers, and water, electric, gas and telephone lines
  8. General landscape plan indicating the treatment of both private and common open spaces and the location of required buffer strips

9. Enough information on land areas adjacent to the proposed PD to indicate the relationship between the proposed development and existing and proposed adjacent areas
10. Any additional information required by the County to evaluate the character and impact of the proposed PD
11. Appropriate seals of the licensed surveyor, engineer, or architect

## **SECTION 1404 CRITERIA CONSIDERED AND RECOMMENDATION**

**1404.01 CRITERIA CONSIDERED.** The Board of Appeals shall compile a written report which either accepts or rejects the Development Plan. In making their recommendation, the Board of Appeals shall consider the following criteria:

- A. The extent to which the proposed development is consistent with the Comprehensive Plan and with the purposes of this Code and of all other applicable codes and ordinances
- B. The extent to which the proposed development deviates from the regulations that are generally applicable to the property (including, but not limited to, the use, lot and building regulations of the district), and the apparent merits, if any, of said deviations
- C. Whether the proposed design of the PD makes adequate provisions for vehicular and pedestrian circulation, off-street parking and loading, separation of residential and commercial uses, open space, recreational facilities, preservation of natural features, and so forth
- D. The compatibility of the proposed PD with adjacent properties and surrounding area; and
- E. Any other reasonable criteria that the Board of Appeals may devise

**1404.02 RECOMMENDATION BY BOARD OF APPEALS.** The Board of Appeals shall not recommend any PD unless:

- A. The developer has posted a performance bond or deposited funds in escrow in the amount the County Engineer deems sufficient to guarantee the satisfactory completion of all required improvements; and

- B. The State's Attorney has stated that all legal instruments (particularly the restrictive covenants) are satisfactory; and
- C. The proposed PD, as evidenced by the Development Plan, complies with all applicable codes, regulations, and ordinances. (Deviations to the extent permitted under Section 1-4-5 shall not be deemed as non-complying.)

## **SECTION 1405 CHANGES IN APPROVED PLANS**

**1405.01 CHANGES IN APPROVED PLANS.** No changes shall be made to any approved PD Development Plan, except as follows:

- A. Minor changes, if required by engineering or other circumstances not foreseen at the time the final development plan was approved.
- B. All other changes shall require a public hearing before the Board of Appeals.
- C. No approved change shall have any effect until it is recorded with the County Recorder of Deeds as an amendment to the recorded copy of the Development Plan.

## **SECTION 1406 FAILURE TO BEGIN**

**1406.01 FAILURE TO BEGIN DEVELOPMENT.** If a substantial amount of construction has not begun within the time stated in the approved construction schedule, the Development Plan shall lapse upon written notice to the applicant from the Zoning Administrator and shall be of no further effect. However, in his discretion and for good cause, the Zoning Administrator may extend for a reasonable time the period for the beginning of construction. If a final Development Plan lapses as per this Section, the following shall be applicable:

- A. The special-use permit shall be automatically revoked; and
- B. Any zoning permits shall automatically become null and void; and
- C. All regulations applicable before the PD was approved shall automatically be in full effect

## **SECTION 1407 COUNTY EXEMPTION**

**1407.01 COUNTY EXEMPTION.** In conjunction with any existing or proposed development, the County shall be exempt from all the provisions of this Section.

## SPECIAL REGULATIONS

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### User note:

*About this chapter:* Chapter 15 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 use is permitted; but if more stringent regulations are applicable in any district, such regulations shall prevail.

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### SECTION 1501 RIGHT-OF-WAY

1501.01 NECESSARY RIGHT-OF-WAY will be as follows unless county highway or road district rules supersede.

1501.02 - 100' RIGHT-OF-WAY FOR THE FOLLOWING ROADS:

Illinois Route 97  
Illinois Route 123  
Illinois Route 29  
Middletown Blacktop Avenue (C.H. 1)  
Athens Blacktop Road (C.H. 2)  
Gudgel Avenue (C.H. 4)  
Five Points Street (C.H. 5)  
Newmansville Avenue (C.H. 6)  
East Oakford Avenue (C.H. 7)  
Fairgrounds Street (C.H. 7)  
Sweetwater Avenue (C.H. 10)  
Peoria Street (C.H. 10)  
Fancy Prairie Avenue (C. H. 11)  
Kincaid Street Avenue (C.H. 11)  
Quarry Avenue (C.H. 11)  
Engel Street (C.H. 11)  
Winterbauer Avenue (C.H. 11)  
Culver Street (C.H. 11)  
West Oakford Avenue (C.H. 12)  
Atterberry Street (C.H. 13)  
Post Street (C.H. 14)  
Curtis Blacktop Road (C.H. 16)  
Altig Bridge Avenue (C.H. 17)  
Rahman Street (RD7) (TR 16)  
Lower Salt Creek Street (TR 120)  
Hubly Street (RD10) (TR 116)  
Levee Street (RD10) (FAS 571)

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

1501.03 - 80' RIGHT-OF-WAY FOR THE FOLLOWING ROADS:

Logan County Line Road (C.H. 3)  
Rock Creek Avenue (C.H. 5)  
Oakland Cemetery Street (RD5) (TR 200)

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

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

1501.03 - 60' RIGHT-OF-WAY FOR ANY OTHER STREET OR ROAD IN THE COUNTY which Right-of-way in each case, shall be centered on the centerline of the abutting roadway or, if none, the property line.

### SECTION 1502 TELECOMMUNICATION FACILITIES – CELL TOWERS

1502.01 PURPOSE AND INTENT: The purpose and intent of the Telecommunications Facility section per (55 ILCS 5/5-12001.1) is to accommodate the communication needs of Menard County residents and businesses while protecting the public health, safety, and general welfare of the community. Co-location on a single tower of antenna and other equipment by multiple wireless phone companies is encouraged. Co-location of similar communication equipment by local utility companies and emergency services is also encouraged. The requirements of this section shall apply to communications facilities in all zoning districts.

1502.02 NEW TELECOMMUNICATION FACILITIES. New Telecommunication Facilities are permitted in Menard County, subject to the following:

1502.03 PERMITTING. A facility is permitted if its supporting structure is a qualifying structure (as

defined in 55 ILCS 5/5-12001.1) or if both of the following conditions are met:

- a) The height of the facility shall not exceed 350 feet; and
- b) The horizontal separation distance, as measured from the center of the base of the facility to the nearest vertical wall of a principal residential building shall not be less than the height of the supporting structure; except that if the supporting structure exceeds 99 feet in height, the horizontal separation distance to the nearest principal residential building shall be at least 100 feet or 80% of the height of the supporting structure, whichever is greater. Compliance with this paragraph shall only be evaluated as to the time that an application for a Zoning Permit for the facility is submitted. If the supporting structure is not an antenna tower, this paragraph is satisfied

1502.04 SITING. The following placement factors shall be considered:

- a) A non-residentially zoned lot is the most desirable location
- b) A residentially zoned lot that is not used for residential purposes is the second most desirable location
- c) A residentially zoned lot that is 2 acres or more in size and is used for residential purposes is the third most desirable location
- d) A residentially zoned lot that is less than 2 acres and used for residential purposes is the least desirable location. The size of a lot shall be the lot's gross area in square feet without deduction of any unbuildable or unusable land, any roadway, or any other easement

1502.05 COMPLIANCE. The extent to which the design of the proposed facility reflects compliance with the following:

- a) No portion of a facility's supporting structure or equipment housing shall be less than 15 feet from the front lot line of the facility lot or less than 10 feet from any other lot line. Except as provided for in this section, no other yard or setback requirements shall be required.
- b) Lighting should be installed for security and safety purposes only. Except with respect to lighting required by the FCC or FAA, all lighting should be shielded so that no glare extends substantially beyond the boundaries of a facility

- c) No facility should encroach onto an existing septic field or recorded easement
- d) Any facility located in a special flood hazard area or wetland should meet the legal requirements for those lands
- e) Existing trees more than 3 inches in diameter should be preserved if reasonably feasible during construction. If any tree more than 3 inches in diameter is removed during construction a tree 3 inches or more in diameter of the same or a similar species shall be planted as a replacement if reasonably feasible. Tree diameter shall be measured at a point 3 feet above ground level
- f) If any elevation of a facility faces an existing, adjoining residential use within a residential zoning district, low maintenance landscaping should be provided on or near the facility lot to provide at least partial screening of the facility
- g) Fencing should be installed around a facility. The height and materials of the fencing should be in accordance with any county fence regulations of general applicability
- h) Any building that is part of a facility located adjacent to a residentially zoned lot should be designed with exterior materials and colors that are reasonably compatible with the residential character of the area
- i) A facility may be located on the same zoning lot as one or more other structures or uses without violating any ordinance or regulation that prohibits or limits multiple structures, buildings, or uses on a zoning lot
- j) No minimum lot area, width, or depth shall be required for a facility, and unless the facility is to be manned on a regular, daily basis, no off-street parking spaces shall be required for a facility. If the facility is to be manned on a regular, daily basis, one off-street parking space shall be provided for each employee regularly at the facility. No loading facilities are required
- k) No bulk regulations or lot coverage, building coverage, or floor area ratio limitations shall be applied to a facility or to any existing use or structure coincident with the establishment of a facility. Except as provided in this Section, no height limits or restrictions shall apply to a facility

1502.06 EXCEPTIONS. Unless a facility is permitted under paragraph (1) of this subsection (1502.02 NEW TELECOMMUNICATION

FACILITIES), a facility can be established only after the county board gives its approval following consideration of the provisions of paragraph (1502.07 CONSIDERATION FOR PERMITTING) of this subsection. The county board may give its approval after one public hearing on the proposal, but only by the favorable vote of a majority of the members present at a meeting held no later than 75 days after submission of a complete application by the telecommunications carrier. If the county board fails to act on the application within 75 days after its submission, the application shall be deemed to have been approved. No more than one public hearing shall be required.

#### 1502.07 CONSIDERATION FOR PERMITTING.

For purposes of (1502.06 EXCEPTIONS) of this subsection, the following site considerations, but no other matter, shall be considered by the county board or any other body conducting the public hearing:

- a) the criteria in paragraph (1502.04 SITING) of this subsection
- b) whether a substantial adverse effect on public safety will result from some aspect of the facility's design or proposed construction, but only if that aspect of design or construction is modifiable by the applicant
- c) the benefits to be derived by the users of the services to be provided or enhanced by the facility and whether public safety and emergency response capabilities would benefit by the establishment of the facility
- d) the existing uses on adjacent and nearby properties
- e) the extent to which the design of the proposed facility reflects compliance with paragraph (1502.05 COMPLIANCE) of this subsection

### **SECTION 1503 HOME OCCUPATION**

1503.01 HOME OCCUPATION. A home occupation is an occupation or profession practiced by a member of the family residing in the dwelling unit and which occupation is clearly an accessory use to the principal residential use of the dwelling unit or the principal use of a farm in which a residential dwelling is located and meets the following standards:

- a. Such home occupation shall be conducted entirely within a dwelling unit or otherwise authorized accessory buildings

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

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

1503.02 LIMITATIONS ON USE. A home occupation shall be considered a special-use in any residence district, provided the home occupation is subject to the following limitations.

1503.03 EMPLOYEES. The use shall be conducted entirely within a dwelling or permitted accessory building and carried on by the inhabitants living there.

1503.04 DWELLING ALTERATIONS. In any residential district, a principal residential building shall not be altered—to accommodate a home occupation—in such a way as to materially change the residential character of the building.

1503.05 FLOOR SPACE. The total area used for the home occupation shall not exceed **twenty-five percent (25%)** of the gross floor area of the dwelling, or **three hundred (300) square feet**, whichever is less.

1503.06 SIGN RESTRICTIONS. There shall be no exterior advertising other than identification of the home occupation by a sign which shall be attached to the dwelling or the accessory building and shall not exceed **three (3) square feet** in area and shall not be illuminated.

1503.07 EXTERIOR STORAGE. There shall be no exterior storage on the premises of material or equipment used as a part of the home occupation.

1503.08 UNLAWFUL STORAGE. There shall be no storage or use of toxic, explosive or other dangerous or hazardous materials upon the premises.

1503.09 PARKING REQUIREMENTS. A home occupation, including studios or rooms for instruction, shall provide off-street parking area adequate to accommodate needs created by the home occupation as prescribed in Section 306 PARKING REGULATIONS.

1503.10 COVENANTS. The use must be in conformance with all valid covenants and agreements recorded with the County Recorder of Deeds, covering the land underlying the dwelling.

1503.11 PERMIT REQUIRED. A home occupation permit may be issued for any use allowed by the

Zoning Code, providing all other criteria for issuance of a home occupation permit are met. A home occupation shall not be permitted without a special-use permit being recommended by the Board of Appeals and approved by the County Board, which shall determine whether or not the proposed home occupation complies with all applicable laws and ordinances.

1503.12 ACTIVITIES NOT COVERED. A home occupation permit shall not be required for activities such as telecommuting, involving no outside sign, little or no increase in traffic, and with only occasional visits by members of the public to the home. As used in this Section, —telecommuting means working in the home by using a computer terminal connected to a central office or central computer.

## **SECTION 1504 HOSPITALS AND NURSING HOMES**

1504.01 HOSPITAL LOT SIZE. The lot on which any hospital or sanitarium is situated shall have a minimum width and depth of two hundred (200) feet, and a minimum area of five (5) acres.

1504.02 NURSING HOMES LOT SIZE. The lot on which any nursing home is situated shall have a minimum width and depth of two hundred (200) feet, and a minimum area of two (2) acres.

1504.02 SETBACK. The principal building of any hospital, sanitarium, or nursing home shall be located at least twenty-five (25) feet from all lot lines.

## **SECTION 1505 JUNKYARDS**

1505.01 JUNK YARDS. No part of any junk yard (see definition in Section 202 GENERAL DEFINITIONS) shall be located closer than **five-hundred (500) feet** to the boundary of any Residential District and shall be considered a Special Use in all districts. All vehicles, parts, and equipment shall be stored within a completely enclosed structure or within an area screened by a wall, solid fence, or closely-planted shrubbery at least **ten (10) feet** high and of sufficient density to block the view from adjacent property.

## SECTION 1506 STORAGE SHEDS

1506.01 GENERAL. Permits are required for storage sheds, portable buildings, shipping containers and like structures, that are utilized as an accessory structure adjacent to the primary structure and utilized for storage only.

1506.01 SCREENING COMPLIANCE. Menard County requires that accessory structures in this category conform to the surrounding neighborhood and be aesthetically pleasing. Structures should be color matched to blend in with surrounding structures and or be screened with fence or landscaping to further blend with existing surroundings.

1506.01 TIE-DOWN COMPLIANCE. Menard County requires that accessory structures be affixed to the ground and it shall be the homeowner's responsibility to ensure that the accessory structure is tied down within 30 days after it is installed.

1506.01 EXEMPTION. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any laws or ordinances of this jurisdiction. Permits shall not be required for the following:

1. One-story detached accessory structures used as tool and storage sheds, playhouses, and similar uses, provided that the floor area is not greater than 120 square feet"

## SECTION 1507 LANDFILLS

1507.01 SANITARY LANDFILLS. Any person who intends to establish or conduct a sanitary landfill within Menard County shall secure a special use permit from the County and shall obtain a permit from the Illinois Environmental Protection Agency indicating that the sanitary landfill fully complies with the regulations promulgated by the Illinois Environmental Protection Agency pursuant to the authority granted by State law.

## SECTION 1508 SURFACE MINING

1508.01 SURFACE MINING PERMIT REQUIRED. It shall be unlawful for any operator to engage in surface mining in Menard County until a permit has been properly obtained from the Illinois Department of Mines and Minerals and has posted a performance bond in accordance with the provisions of applicable State Statutes (225ILCS 725/26) and State regulations.

It shall be the policy of the County to take any lawful measure to prevent the issuance of a permit for any proposed surface mining operation involving: agricultural land; or land located within **one thousand (1,000) feet** of any significant existing development, especially residential development.

1508.02 RECLAMATION PLANS. As set forth in State law, whenever any land in the County is proposed to be surface-mined, the prospective mine operator shall file a reclamation plan for public inspection at the County Courthouse not less than **sixty (60) days** prior to any action on said plan by the Department of Mines and Minerals. Within **forty-five (45) days** of receiving said plan, the County Board may: Request that a public hearing be conducted in the County by the Department of Mines and Minerals; and proposes the uses for which surface-mined land is to be reclaimed.

## SECTION 1509 UNDERGROUND MINING

1509.01 UNDERGROUND MINING – SPECIFIC REQUIREMENTS. It shall be unlawful for any operator to engage in underground mining in Menard County until a permit has been properly obtained from the Illinois Department of Mines and Minerals. The following requirements must be met as a condition for obtaining a **special use permit** for underground mining activities: No open pit or shaft shall be less than **five hundred (500) feet** from an existing residence or Residential District established by this Code; and all buildings or structures for screening, crushing, washing, mixing, or storage shall be located not less than **one thousand (1,000) feet** from an existing residence or any Residential District established by this Code.

1509.02 LONG WALL COAL MINING. Shall not be allowed anywhere in Menard County.

## SECTION 1510 OIL OR GAS DRILLING, INJECTION WELLS OR CONVERSION WELLS.

1510.01 OIL OR GAS DRILLING AND INJECTION WELLS OR CONVERSION. No oil or gas well drilling or injection wells in connection therewith; are permitted within the County in any District unless granted under a Special Use Permit. Production well means a well drilled for the production of oil or gas, or well drilled for a water supply for use in connection with an enhanced oil or gas recovery project.

1510.02 CERTIFICATES. Certificates shall be issued by Special Use. An application for Special Use Exception along with a filing fee must be submitted to the Zoning Administrator. The application must include a copy of the drilling permit previously obtained from the State of Illinois, Department of Mines and Minerals, or other agency of the State of Illinois empowered to issue the required permits, copy of lease, copy of deed, and **three (3) photos** of site.

1510.03 DOCUMENTATION. To be included for submission to the Zoning Administrator, **two (2) copies** of a survey map (aerial photo and topographic to include a distance of **one thousand (1,000) feet** radius from the well head) showing the following information with a scale of no smaller than **one (1) inch** to equal **four hundred (400) feet**:

- a. Location of proposed production well, to include name of well, and any other production wells. General location of pipelines, public roads in surrounding areas as they relate to the production well. Furthermore, showing the location of any storage tanks, utilities, power lines both above and below ground level, and buildings located upon the real estate including residences, outbuildings, or other structures. The surrounding area relates to immediate **one thousand (1,000) foot** radius and neighboring property owners within **two thousand (2,000) foot** radius
- b. The location of any natural water sources including lakes, wetlands, ponds, creeks, rivers, and/or any other natural openings in the ground such as a natural geological phenomenon known as —sink holes or karst areas
- c. The location of all man-made water sources such as wells or cisterns, and any water conduit devices, such as public water supply mains
- d. As accorded within Illinois State Statutes and the Illinois Revenue Code, all oil or gas well purchasers and investors who produced oil in Menard County will send to the Menard County Tax Assessor's office a listing of those producers within Menard County's jurisdiction. Failure to file or satisfy a tax lien on the oil or gas production will result in well certificate forfeiture. Any new owners, operators, or permittee will be informed by the applicant on the State Permit of this requirement and must contact

the Assessor's Office and Zoning Office at the time of the sale

1510.04 SIGNATORIES. The Property Owner and Illinois State Permittee will both be required to sign for the Special Use Permit. However, the signature by owner does not constitute responsibility or the approval of the state permittee. If the owner or permittee is an individual, the application shall be signed by the individual. If the owner or permittee is a partnership, the application shall be signed by a general partner. If the owner or permittee is a corporation, the application shall be signed by an officer of the corporation.

1510.05 HEALTH, SAFETY AND CLEANUP. The state permittee of the oil or gas well site will be required to obey all local health, safety, aesthetic, and environmental regulations. All cleanup will be performed by the state permittee or forfeiture of state bond will result to enhance cleanup effort. Any additional cost to the County due to permittee's negligence shall be paid by said permittee. If any activities conducted by the state permittee result in violation of any state or county ordinances or regulations, subsequent prosecution will be conducted by the Menard County State's Attorney.

1510.06 FEES. Well Certificate fee refer to fee schedule.

1510.07 SECURITY BONDING. The operator will present the Zoning Office a photo copy of any State security deposit or bond and an annual report of the monies paid to the Illinois Plugging and Restoration Fund. Any new owner/operator will be informed of this requirement, and must contact Zoning Office at the time of sale.

1510.08 EXTREME IN TOPOGRAPHY. The application shall furthermore include an explanation of any extremes in topography such as location of bluffs, sinkholes, ravines, or other extreme topographical variances within the real estate.

1510.09 MINIMUM DISTANCE REQUIREMENT. The drilling of an oil well shall not occur within **three hundred thirty (330) feet** from the nearest external boundary lines of the drilling unit, within **one hundred five (105) feet** of a public road right-of-way, within **two hundred (200) feet** of any residence located on the property, within **one hundred (100) feet** of any other building located on the specified site or property. Provided, however, that the owner of the real estate can ask for a variance to waive the minimum distance requirement for

residences or other buildings set forth under this paragraph by notifying the Zoning Administrator.

1510.10 DISCONTINUANCE. If a well or tank site is not used for more than **two (2) years**, it will be considered abandoned and if in violation of Mines and Minerals regulations (Ill. Oil & Gas Act Sec. 240.1130) or County regulations, it shall be plugged and/or cleaned up. If failure to follow any of the regulations, penalties would apply and the tank permit and/or well certificate will be revoked.

1510.11 DANGER TO PUBLIC HEALTH AND WELFARE OR PROPERTY DAMAGE. Upon the inspection of the oil or gas wells and/or oil or gas storage site referred to herein in an A-1 or I-1 zoned district of Menard County if the Zoning Administrator or other officer designated by the County Board shall, after inspection of the site, determine that there is an imminent threat to public health and welfare or that there is imminent threat of property damage due to the topographical condition, then the regulatory penalties as dictated by the State's Attorney would apply with possible revoking of the permit and/or well certificate.

1510.12 FLOOD PLAIN REGULATIONS. If oil or gas site is located in a flood plain, refer to Section 1512.09.

## **SECTION 1511 OIL OR GAS STORAGE TANK SITES**

1511.01 OIL OR GAS STORAGE SITE PERMITS. Oil or Gas Storage Tank Site Permits in the County of Menard will only be issued through a Special Use Permit.

1511.02 APPLICATION FOR PERMITTING. There shall be submitted with all applications for a building permit for purposes of erecting oil or gas storage tanks and accompanying apparatus, **three (3) photos** of site, list of landowners and landowners' addresses, copy of deed or lease of property, and **two (2) copies** of a layout or site plan, with a scale of **one (1) inch** to equal **four hundred (400) feet**, showing the following:

- a. General location of the oil or gas tanks, pipelines, and public roads in the surrounding areas as they relate to the oil well which was drilled pursuant to the permit set forth in **Section 1511.01**

- b. In addition, the site plan shall show the location of any storage tanks, power lines and buildings located upon the real estate which is set forth in the well certificate including the residence, outbuildings, or other buildings upon the property, if any. Surrounding area related to immediate **one thousand (1,000) foot** radius, and neighboring property owners within **two thousand (2,000) foot** radius with a scale of **one (1) inch** to equal **four hundred (400) feet**
- c. The location of any natural water sources on the real estate set forth in the Well Certificate, including lakes, wetlands, ponds, creeks, rivers, and/or any other natural openings in the ground such as a natural geological phenomenon known as —sinkholes, or karst areas
- d. The location of all man-made water sources such as wells or cisterns, and any water conduit devices, such as public water supply mains
- e. The location of any power lines or other utility lines within the site or within **one hundred (100) feet** from the site; **Three (3) photos** of the location of the proposed site from **three (3)** different angles
- f. Size/Volume of storage tanks to be erected; oil spill confinement area (SF); and height of earthen dike/berm. (This plan will represent a relationship of the three variable Vol/Area/Height required to meet size requirements of **Section 1511.04**

1511.03 EXTREME IN TOPOGRAPHY. The application shall furthermore include an explanation of any extremes in topography such as location of bluffs, ravines, sinkholes, or other extreme topographical variances within the real estate which is set forth in the well certificate.

1511.04 DISTANCE AND SIZE REQUIREMENTS. The application shall provide that a properly constructed earthen dike around the oil tank storage site shall be sufficient to retain the maximum amount of oil, water or other liquid equal to **one and one-half (1 ½) times** the storage capacity of the largest tank it contains, and be bermed at least **eighteen (18) inches** above the ground surface. The dike shall be continually maintained and reservoir within shall be kept free from vegetation, water, or oil. (Refer to

specifications of Illinois Oil & Gas Act [225 ILCS 725] for minimum requirements.)

1511.05 SETBACK FROM POWER SOURCES.

The oil or gas tank storage site shall be a minimum of **sixty (60) feet** from any power line or power source located upon the premises or adjacent to the site which is not used as an onsite power source.

1511.06 BURIAL OF LINES All water lines and oil lines or other transmission lines listed upon or used on the site shall be buried at a distance of at least **thirty-six (36) inches** below the surface of the ground.

1511.07 GENERAL SETBACKS The oil or gas tank storage site shall be a minimum of **five hundred (500) feet** from any residence, church, school, or other regular gathering place, and a minimum of **two hundred (200) feet** from any other building, excluding a tank storage shed, and a minimum of **two hundred (200) feet** from any County, State or Federal maintained road, and a minimum of **three hundred (300) feet** from surrounding property owners boundary lines. The owner of the real estate can ask for a variance to waive the minimum distance requirements for residences or other buildings set forth under this paragraph by notifying the Zoning Administrator.

1511.08 SCREENING A fence or wall will be constructed **six (6) feet** in height and placed around the storage site with a posted sign. (DANGER), (KEEP OUT), (NO TRESPASSING). A sign will be posted to show current name of lessee and owner/or operator and section, township, and range of storage site. All fenced areas will be locked.

1511.09 SITE MAINTENANCE. The site shall be maintained, area mowed, clean of debris, unused equipment, and all abandoned and unused tanks will be removed and properly disposed of. Tanks must be free from rust and painted a solid color with exterior paint. Any abandoned equipment or abandoned vehicles used in the drilling or production process must be removed or stored in an appropriate outbuilding. All well and tank locations shall be kept free of dead grass, brush, weeds, and other flammable material, and so maintained at all times.

1511.10 COST. The operator shall pay a fee for the building permit under this Section see **fee schedule** per tank.

1511.11 DANGER TO PUBLIC HEALTH AND WELFARE OR PROPERTY DAMAGE.

Same as Section (1510.05 HEALTH, SAFETY AND CLEANUP).

1511.12 DISCONTINUANCE. Same as Section (1510.10 DISCONTINUANCE).

1511.13 FLOOD PLAIN. If site is located in a flood plain, applicant must also follow Section 1512.09.

## **SECTION 1512 OIL OR GAS DRILLING AND TANK SITES IN FLOOD PLAIN**

1512.01 COMPLIANCE. Oil or Gas drilling, injection wells or conversion wells and tank site facilities in a flood plain area must comply with **Sections 1510 and 1511** and regulations listed below:

1512.02 FLOOD CERTIFICATE. Require a Flood proof Certificate

1512.03 ELEVATED PLATFORM. The well head can stay at grade level provided that it is flood proof and pump-jack should be placed on a **fifteen (15) foot** platform or **one (1) foot** above FPE.

1512.04 ADDITIONAL COST. Any additional cost to the County due to the applicant or permittee cleanup that exceeds Illinois State deposit shall be paid by said permittee. This shall include oil or gas requirements stated in **Sections 1510 and 1511**.

1512.05 DIKE CONSTRUCTION. Oil or gas storage tank sites shall include said earthen dike, but constructed to withstand a typical wet floodplain environment or flood.

1512.06 ELEVATED TANKS. Oil or gas storage tanks must be elevated no less than **fifteen (15) feet** from grade or **one (1) foot** above the FPE by non-erodible methods to include a rock base berm or tanks need to be anchored to withstand any flood waters.

1512.07 WELL CAP STORAGE. Oil or gas well caps and mechanisms must be stored and secured on site for emergency use in times of flooding. Menard County reserves the option to conduct unscheduled inspections by Zoning Administrator. Any site found in violation may be fined not less than **Two Hundred Dollars (\$200.00)** or no more than **Five Hundred Dollars (\$500.00)** per week.

1512.08 EVACUATION PLAN. Oil or gas storage facilities should have a prepared oil evacuation plan in the event of possible evacuation by flood waters. A site ponding gauge should be installed on site and be visible from boundary fence. When ponding gauge shows **six (6) inches** from base, the oil or gas evacuation plan should be implemented.

1512.09 FLOODPLAIN ORDINANCE. All regulations under the model ordinance for the State of Illinois and Menard County regulating development in Special Flood Hazard Areas will also apply.

## **SECTION 1513 SCREENING**

1513.01 SCREENING. Any screening (See definition in Section 202), must conform to the front yard (any yard that abuts a street or road) setback requirements of the district in which it is located unless it is of a height and/or type that does not obstruct or physically interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct, or physically interfere with a motor vehicle operator's view of approaching, merging, or intersecting traffic.

## **SECTION 1514 SUBDIVISION SITING CRITERIA IN REGARD TO SETBACKS FOR LIVESTOCK MANAGEMENT OR LIVESTOCK WASTE HANDLING FACILITIES**

1514.01 SMALL FACILITY SITING CRITERIA. Any new subdivision shall comply with the following setbacks:

- a. For purposes of determining setback distances, minimum distances shall be measured from the nearest corner of the subdivision or place of common assembly to the nearest corner of the earthen waste lagoon or livestock management facility, whichever is closer
- b. A subdivision or place of common assembly shall be exempt from setback distances when the livestock management facility or livestock waste handling facility serves less than **fifty (50)** animal units
- c. For a subdivision with less than **ten (10)** residential lot(s), the minimum setback distance shall be **one-fourth (¼) mile** from the nearest livestock management facility or livestock handling facility serving **fifty (50)** or greater but less than **one thousand (1000)** animal units, and **one-half (½) mile** from a

subdivision with greater than **ten (10)** residential lots or a subdivision where at least **fifty (50) persons** frequent a common place of assembly or a non-farm business at least once a week

### 1514.02 MEDIUM FACILITY SITING CRITERIA.

For a subdivision with over **ten (10)** residential lots or where at least **fifty (50) persons** frequent a common place of assembly or a non-farm business at least once a week, the setback is as follows:

- a. For a livestock management or livestock waste handling facility serving **one thousand (1000)** or greater animal units but less than **seven thousand (7000)** animal units, the minimum setback shall be increased **four hundred forty (440) feet** over the minimum setback of **one-half (½) mile** for each additional **one thousand (1000)** animal units over **one thousand (1000)** animal units
- b. For any subdivision, the minimum setback shall be increased **two hundred twenty (220) feet** over the minimum setback of **one-fourth (¼) mile** for each additional **one thousand (1000)** animal units over **one thousand (1000)** animal units

### 1514.03 LARGE FACILITY SITING CRITERIA.

For a subdivision with over **ten (10)** residential lots or where at least **fifty (50) persons** frequent a common place of assembly or a non-farm business at least once a week, the setback is as follows:

- a. For a livestock management or livestock waste handling facility serving **seven thousand (7000)** or greater animal units, the minimum setback shall be **one (1) mile**
- b. For any subdivision, the minimum setback shall be **one-half (½) mile**

1514.04 SETBACK DETERMINATION. Setback category shall be determined by the design capacity in animal units of the livestock management facility per state statues [510 ILCS 77]. See also section 1525.02 for animal units.

## SECTION 1515 ADULT ORIENTED BUSINESS AND SIGNAGE

1515.01 GENERAL. Adult oriented business is prohibited from operating, location, or otherwise conducting business in any zoning district other than the Industrial District, as defined and described in the County Zoning Code, as amended from time to time.

1515.02 LOCATION. Adult oriented businesses are prohibited from operating, locating, or otherwise conducting business within **three thousand (3000) feet** of:

- a. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities
- b. A public or private school or educational facility, including but not limited to child day care facilities, nursery school, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, continuation schools, special education schools, community colleges, and universities; school includes the school grounds
- c. The boundary of any residential district as defined in the Zoning Code, as amended from time to time
- d. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the County which is under the control, operation, or management of the County or park district
- e. The property line of a lot devoted to a residential use as defined in the Zoning Code, as amended from time to time
- f. Any premises licensed pursuant to the alcoholic liquor control regulations of the State of Illinois and the County of Christian, as amended from time to time
- g. Place of public accommodation or restaurant.

1515.03 RELATION TO OTHER ADULT BUSINESS. Adult oriented businesses are prohibited from operating, locating, or otherwise conducting business within **one thousand (1,000) feet** of another adult oriented business.

1515.04 LIMITATIONS. Adult oriented businesses are prohibited from operating, establishing, locating, or maintaining more than **one (1)** adult oriented business in the same building, structure, or portion thereof.

1515.05 METHOD OF MEASUREMENT A. For the purpose of subsection (1515.02 LOCATION) of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where an adult oriented business is conducted, to the nearest property line of the premises of the use listed above. Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.

1515.06 METHOD OF MEASUREMENT B. For the purposes of subsection (1515.03 RELATION TO OTHER ADULT BUSINESS) of this Section, the distance between any **two (2)** adult-oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

1515.07 AMORTIZATION. Any adult oriented business lawfully operating on **January 1, 1999** that is in violation of paragraph (A) through (F) of this Section shall be deemed a nonconforming use. Upon service of notice of nonconformance by the County upon the owner of the adult oriented business, the nonconforming use will be permitted to continue for a period not to exceed **one (1) year**, unless sooner terminated for any reason or voluntarily discontinued for a period of **thirty (30) days** or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that any use may be changed to a conforming use. Upon the written request of the owner of the nonconforming adult oriented business use, the said **one (1) year** period shall be extended by the County for an additional period of **six (6) months**.

An adult oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the adult oriented business license, of a use listed in subsection (B) of this Section within **one thousand (1,000) feet** of the adult oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or been revoked.

1515.08 SIGN REQUIREMENTS. All adult oriented businesses shall comply with the following sign requirements:

- a. All signs shall be permanent, flat wall signs attached to the exterior walls of the premises only
- b. The amount of allowable sign area shall be **one (1) square foot** of sign per foot of lot frontage on the street fronting the premises
- c. No sign shall be equipped with lighting mechanisms capable of flashing
- d. No merchandise or pictures of the products or entertainment on the premises shall be displayed on any sign, or in any window areas or any area where they can be viewed from the sidewalk in front of the building. A **one (1) square foot** sign may be placed on the entrance to the premises stating the hours of operation of the adult oriented business and admittance to adults only

1515.09 ADULT ENTERTAINMENT FACILITY'S.  
Are as defined in State Statute 55ILCS 5/5-1097.7.  
Also see Section 202 of this ordinance.

1515.10 COUNTY ORDINANCES MAY PROHIBIT SALE OF OBSCENE MATERIAL.  
Menard County would have injunctive power to close or prevent a facility in violation of Statute. A fine of \$1000.00 per day, with each day being a separate offense.

## SECTION 1516 CAMPGROUNDS

### 1516.01 RECREATIONAL VEHICLES.

Recreational vehicles, as defined herein, shall not be occupied for dwelling purposes except in lawfully established commercial campgrounds. The temporary use of a recreational vehicle for dwelling purposes may be permitted when an application for a permit has been recommended by the Board of Appeals and approved by the County Board and the following conditions must be considered.

- a. Construction. When the applicant desires to build a dwelling and said dwelling will not be occupied within a **twelve (12) month** period
- b. Recreation. When the applicant desires to use a recreational vehicle on private property strictly for recreational purposes and not for a permanent habitation, and the location of the recreational vehicle does not hinder the use, degrade, or affect the value and appearance of adjoining properties, and

adequate water supply and sewage disposal facilities are provided and approval from the Menard County Health Department, said use of a recreational vehicle may be permitted

### 1516.02 GENERAL All recreational vehicles must:

- a. Be licensed and titled as an RV or park model
- b. Have inflated wheels and be self-propelled or towable by light truck
- c. Have no attached deck, porch, shed
- d. In addition to the above, the following provisions apply to recreational vehicles in the floodplain
- e. Not be used as a permanent dwelling
- f. Be less than **four hundred (400) square feet**
- g. Have quick disconnect propane tank
- h. Have elevated, quick disconnect sewer service
- i. Have elevated electrical service and air conditioning unit

1516.03 PERMITS. Permits are required for recreational trailers that are to be occupied with the exception of those situations permitted under Section 1516.05.

1516.04 COMPLIANCE. Occupied recreational trailers subject to permit requirements must show evidence of compliance with federal HUD regulations or applicable State law.

1516.05 CRITERIA FOR APPROVAL. Permits and annual renewals and special use permits may be approved by the Zoning Administrator and or the Zoning Board of Appeals as follows:

1. Medical care or assistance: (Special Use Permit req.) Permits may be renewed annually provided a doctor's certification is provided indicating assistance is still required
2. New home construction or repair: (Special Use Permit req.) Permits may be issued for a period of up to one (1) year, and may be extended by the Zoning Administrator by six (6) months if the applicant shows adequate progress in construction
3. Permits may be rescinded by the Menard County Zoning Administrator for failure to conform to this ordinance
4. Recreational trailers and mobile homes must be removed from the zoning lot within sixty (60) days of notice of the rescinded or

- expired permit, unless otherwise allowed by ordinance
5. Permits for a temporary mobile home (Special Use Permit req.), must be renewed annually or as stated above. The Menard County Zoning Administrator may extend permits beyond the one (1) year and six (6) month limit as stated in Section 1516.05 (2). When the permit expires or when occupants of the trailer or mobile home do not meet the conditions set forth above, the trailer or mobile home must be removed within sixty (60) days
  6. Fees:
    - 1) Permit application form must be accompanied by a fee set by the Menard County Board, not refundable
    - 2) An annual fee set by the Menard County Board will be required on or before the renewable date stated on the approved permit

**1516.06 AFFIDAVIT REQUIREMENT.** That all applications for a permit be accompanied by an affidavit, stating as follows:

1. Names and addresses of occupants
2. Location of use
3. Description of trailer
4. Reason for application
5. Statement that a change in usage, name or number of occupants, location, will be reported to the Zoning Office immediately

**1516.07 CAMPGROUND ACCESSORY USE REQUIREMENTS.** Allowable accessory uses when the principal use of the property is a campground include: decks, detached storage, carport/canopy RV pad covering. A total of 400 square feet of total accessory building(s)/structure(s) excluding the carport/canopy RV pad covering. No bulk regulations, except for maximum building and structure height, shall apply to such accessory uses except if a campground lot is to have direct access to a public road whereas the minimum lot width requirements and front setback requirement of the B-2 zoning district shall apply. (See section 1531).

## **SECTION 1517 PLANT NURSERIES AND GREENHOUSES**

**1517.01 GENERAL.** In any district where a commercial tree and plant nurseries and greenhouses are permitted, the establishment of such uses shall be subject to the following requirements:

- a. No fertilizer, compost, manure or other odor or dust producing substance shall be stored within **fifty (50) feet** of any property line
- b. Greenhouse heating plants shall be in an enclosed building and shall not be less than **fifty (50) feet** from any property line
- c. Along any side or rear lot line, there shall be provided and maintained a planting or other appropriate screen of such size and density as to provide visual screening from adjacent residential properties

## **SECTION 1518 BULK STORAGE (FLAMMABLE) FACILITIES**

**1518.01 GENERAL.** The storage, use or manufacture of flammable liquids or materials which produce flammable or explosive vapors or gases, shall be permitted in accordance with regulations of the Office of the Illinois State Fire Marshal [Title 41 Illinois Administrative Code Part 160] and Illinois Environmental Protection Agency and NFPA 30 and NFPA 101.

All combustible material shall be stored in such a way as to include, where necessary, access drives to permit free access of firefighting equipment.

## **SECTION 1519 BUFFER STRIPS, FENCES, WALLS, AND HEDGES**

**1519.01 GENERAL.** Buffer strips, fences, walls, or hedges used for any purpose shall, in all districts, conform to the following:

Whenever a commercial, multi-family or industrial district abuts a residential district or is across a street, alley or similar obstacle from a residential district, a buffer strip of landscaping and/or other treatment shall be required. If a buffer strip is live landscaping, a temporary artificial screening shall be provided until such time as landscape screening reaches maturity.

Width shall be **twenty (20) feet**, except that between areas zoned —I1 and the designated zones, the width shall be **thirty (30) feet**.

Where an existing —R-1 abuts a district requiring a buffer, the minimum setback from the buffer in that district requiring a buffer shall be **ten (10) feet** providing that a street does not come between the districts.

**1519.02 DRAINAGE CODE.** No fence, wall or other obstruction shall be erected in violation of the **Illinois**

**Drainage Code.** (See 70 ILCS Sec. 2-1 through 2-13)

**1519.03 HEIGHT.** No fence, wall or other obstruction shall exceed **eight (8) feet** in height in any district except the Industrial District (I) where the maximum height shall not exceed **ten (10) feet**; exemption, planting screen, in addition, in areas near street intersections, special height restrictions shall be applicable to fences, walls, or other obstructions.

**1519.04 FRONT YARD SETBACK.** No fence, wall or other obstruction shall be erected in any front yard setback area, with the exception of landscape fences specifically approved by the Zoning Administrator.

No fence, wall or other obstruction which completely encloses a lot shall be erected without the provision of a gate or similar type of moveable barrier for accessibility.

## SECTION 1520 SERVICE STATIONS

**1520.01 GENERAL SETBACKS.** All gasoline pumps and other service facilities shall be located at least **twenty-five (25) feet** from any street right-of-way line, side lot line, or rear lot line.

Every access way shall be located at least **two hundred (200) feet** from the principal building of any fire station, school, public library, church, park, or playground, and at least **thirty (30) feet** from any intersection of public streets.

**1520.02 VENDING MACHINES.** Every device for dispensing or selling milk, ice, soft drinks, snacks, and similar products shall be located within or adjacent to the principal building.

**1520.03 SCREENING.** All trash receptacles, except minor receptacles adjacent to the gasoline pumps, shall be screened from view.

**1520.04 DISCONTINUANCE.** Whenever the use of a service station has been discontinued for **twelve (12) consecutive months** or for **eighteen (18) months** during any **three (3) year** period, the Administrator shall order that all underground storage tanks be removed or filled with material approved by the Fire Chief of the Fire Protection District where it resides.

**1520.05 CURBING.** A permanent curb of at least **four (4) inches** in height shall be provided between the public sidewalk and the gasoline pump island, parallel to and extending the complete length of the pump island.

## SECTION 1521 SCHOOLS

**1521.01 SCHOOLS.** The lot on which any school is situated shall have the minimum area indicated below:

| <b><u>Type of School</u></b>                                                                                                                                                                                                                                                      | <b><u>Minimum Lot Area</u></b>                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| Nursery, Day Care Center                                                                                                                                                                                                                                                          | <b>One hundred (100) square feet</b> of fenced outdoor play area per child. |
| Other (elementary, junior as required by State law (Ill. Comp. Stat., high, senior high) Chap. 105, Sec. 5/35-8) --normally <b>four (4) acres</b> , plus <b>one (1) additional acre</b> for every <b>one hundred fifty (150) students</b> in excess of <b>two hundred (200)</b> . |                                                                             |

**1521.01 SETBACK.** The principal building of any school shall be located at least **twenty-five (25) feet** from all lot lines.

## SECTION 1522 SWIMMING POOLS

**1522.01 FENCING.** Every in-ground swimming pool, whether public or private, shall be enclosed by a wall or fence at least **four (4) feet** in height and shall have a gate that shall be locked when the pool is not in use. An above-the-ground pool, **four (4) feet** or higher, need not have a fence with a gate, so long as the ladder is removed when not in use.

**1522.02 RESTRICTIONS.** No private swimming pool shall be located in any front yard or closer than **ten (10) feet** to any side or rear lot line.

**1522.03 LIGHTING.** 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.

## SECTION 1523 UTILITIES

**1523.01 UTILITY SUBSTATIONS.** Every electrical substation, gas regulator station, telephone exchange facility, sewage treatment plant, water storage facility, or similar facility shall be deemed a "Special Use", and shall conform to the following regulations:

**1523.02 LOT AREA AND SETBACK.** Every lot on which any such facility is situated shall meet the minimum area and dimension requirements of the district in which it is located. Every part of any such facility shall be located at least **twenty-five (25) feet**

from all lot lines, or shall meet the district setback requirements, whichever is greater. In any residential district, the structure housing any such facility shall be designed and constructed to be compatible with the residential character of the area.

**1523.02 SCREENING.** Every such facility shall be screened by close-planted shrubbery at least **ten (10) feet** in height and of sufficient density to block the view from adjacent property. Furthermore, if the Administrator determines that the facility poses a safety hazard (for example, if there are exposed transformers), he shall require that a secure fence at least **eight (8) feet** in height be installed behind the planting screen.

**1522.04 INFRASTRUCTURE.** Transmission and distribution lines and pipelines of public utility companies listed with the Illinois Commerce Commission as a Public Utility, within existing public rights-of-way, shall not be deemed a special use by this ordinance and will revert to the Menard County Utility Permitting process. Outside of public rights-of-way, special use permitting will be necessary for those entities not listed with the Illinois Commerce Commission as a Public Utility and conformance to these regulations will be required.

## SECTION 1524 KENNELS

**1524.01 PERMITTING.** Kennels shall be permitted only in the AG District or RR District with a special use hearing.

**1524.02 SETBACK.** 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.

**1524.03 MINIMUM LOT SIZE.** The lot on which any kennel is situated shall have a minimum area of **two (2) acres**.

## SECTION 1525 AGRICULTURAL ACTIVITIES

**1525.01 FARM ANIMALS.** shall be permitted across all districts in accordance with the following:

- a. On lots less than one (1) acre, no farm-type animals shall be permitted, except as outlined in this Section
- b. On lots at least one acre but less than three acres in size, a maximum of one horse and a maximum combined total of five ducks,

rabbits, chickens, or goats, with the following exception: The number of horses permitted on lots less than three acres in size created prior to 2025, shall be determined in accordance with the methodology as specified below (follow the formula)

- c. On lots three acres or more in size, one horse per acre shall be permitted provided that 21,780 square feet of contiguous land is dedicated as pasture for each horse permitted on a lot. Any lot with more than three horses shall submit a manure management plan to Zoning Staff for review. In addition, for lots over 3 acres but less than 5 acres, maximum combined total of ten ducks, rabbits, chickens, or goats is allowed. Additional farm type animals may be permitted temporarily for 4-H projects
- d. Lots at least one (1) acre in size but less than five (5) acres shall be permitted to keep up to twelve (12) chickens. Lots one (1) acre in size or smaller may keep up to six (6) chickens, provided the conditions contained in this section are met
- e. On lots of 5 acres or more, the following animals are permitted in any combination if there shall not be more than two-thirds of an animal unit per acre in accordance with the following table. The animal unit permitted for any animal not listed shall be determined by the Zoning Administrator and shall as nearly as possible approximate one of the listed animals

### 1525.02 NUMBER OF TYPE OF ANIMAL UNITS' ANIMAL (OR SIMILAR) PER ANIMAL

|                       |
|-----------------------|
| 1.4 Dairy Cattle      |
| 1.0 Beef Cattle       |
| 0.66 Horses           |
| 0.8 Llamas or Alpacas |
| 0.4 Ostrich           |
| 0.4 Goats             |
| 0.4 Hogs              |
| 0.2 Ducks             |
| 0.1 Sheep             |
| 0.02 Turkeys          |
| 0.02 Rabbits          |
| 0.01 Chickens         |

The formula for calculating the number of animals allowed on parcels more than five acres in size shall be as follows:

(Acreage of the property x 0.66) = Total Number of Animal units allowed.

Example: 5.0 Acres x 0.66 = 3.33 Animal Units.  
Based on the Table above, the following mix of animals would be permitted:  
(2 Dairy Cattle = 2.8 Animal Units) + (1 Goat = 0.4 animal Units) + (1 Sheep = 0.10 Animal Units) + (3 Chickens = 0.03 Animal Units) = 3.33 Total Animal Units.

\*Gamebirds such as Quail and Pheasant will be considered on a case-by-case basis as an agricultural activity.

1525.03 SPECIAL USES. The following uses shall be allowed:

- I. Beekeeping with the following conditions:
  - a. Beekeeping and the honey produced from beekeeping shall be for personal use only
  - b. Permit required with fee set by the County Board
  - c. Minimum lot size of 1 acre (43,560 square feet) with a maximum of 2 colonies
  - d. No colony shall be permitted within a front yard setback
  - e. All colonies must be setback at least 30' from any rear or side yard lot line except when abutting a right of way of a street or railroad the colony must be a minimum of 5' from the rear or side yard lot line (as long as there is no sidewalk or pathway)
  - f. All colonies within 100' of an adjoining home shall require a flyway barrier with a 6' minimum height
  - g. All colonies shall require a minimum 4' fence surrounding the perimeter of the colonies or surrounding the perimeter of the entire property. Fencing must have a locking gate with caution signage on each gate
  - h. Notification shall be sent by permit applicant to all adjacent property owners. Notification shall be sent via certified mail or certificate of mail and proof of mailing shall be submitted to the Zoning office. Any property owner who receives notification shall have 14 calendar days from the postmarked date to send written objection to the Zoning office. If any such objection is received, no colony shall be located within 100' of the adjoining home of objecting property owner
  - i. During the application submittal there must be documentation from the Homeowners Association (HOA) stating they approve or deny the proposal. If there is no HOA that must be submitted in writing and signed by the applicant

- j. Prior to submitting a renewal application, an applicant is permitted to resend notification to a property that has previously objected. If the property owner does not object within 14 calendar days after receiving the resent notification, the applicant may locate a colony within 100' of the residence of the previously objecting property but shall maintain a distance of at least 30' from all property lines always unless abutting a right of way in which the colony can be placed with 5' of the property line
- k. The Zoning Administrator has authority to approve all new and renewal permits. If the Zoning Administrator receives information that a renewal applicant has violated any of these requirements, caused injury to the public, impacted the safety and health of the public, or has had an adverse effect on surrounding properties because of keeping bees on the subject property, the Zoning Administrator may, at his or her discretion, deny the renewal application
  - l. Any decision made by the Zoning Administrator may be appealed in writing to the Zoning Board of Appeals
  - m. A site plan indicating the location and distance to property lines and adjacent residences shall be submitted to the Menard County Zoning Department with the application
  - n. Proof of Apiary Registration with the Illinois Department of Agriculture shall be submitted to the Zoning Office within 30 days of the application submittal
  - o. All approved permits shall comply with the *Bees and Apiaries Act* of Illinois (510 ILCS 20)
2. Sawmills and harvesting of timber for public use shall only be allowed by special use in the A-Agricultural district as an Agricultural activity based on *Timber Buyers Licensing Act* (225 ILCS 735/1)

1525.04 FARM STRUCTURES. No barn, stable, shed, or other structure intended to shelter farm animals or Livestock shall be erected closer than **one hundred fifty (150) feet** to any existing dwelling, or closer than **one hundred (100) feet** to any lot line of residential property, whichever distance is greater.

1525.05 FENCES. Fences shall be erected or other means shall be taken to prevent farm animals from approaching closer than **one hundred fifty (150) feet** to any existing dwelling or closer than **one hundred**

**(100) feet** to any lot line or residential property, whichever distance is greater.

1525.06 FARM EQUIPMENT/COMMODITIES. No agricultural equipment or commodities (including, but not limited to, baled crops, fertilizer, pesticides/herbicides) shall be stored outdoors closer than **one hundred fifty (150) feet** to any existing dwelling or closer than **one hundred (100) feet** to any lot line of residential property, whichever distance is greater. If said equipment/commodities are stored within a completely enclosed structure, said structure shall be located at least **fifty (50) feet** from any lot line of residential property.

1525.07 BARBED WIRE/ELECTRICAL FENCES. There will be no Barbed Wire or Electrified fencing in the R-1, R-3 or B-1 districts.

1525.08 AGRITOURISM. Agritourism will be allowed as a Special Use in the Agriculture district and Rural Residential District only. Commercial Agritourism shall be defined in Menard County as:

Any agricultural related activity consistent with a working farm, livestock or poultry operation, horticultural operation, ranch, or working forest (herein referred to as “farm”) that allows members of the general public to view or participate in for recreational, educational, or entertainment purposes. Such activity shall not be permitted on a parcel less than 5 acres. Such activities may generate income for the farm and may include, but may not be limited to, farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and natural attractions. Any activity not related to accessory uses to the primary farm operation does not qualify as agritourism. An activity is an agritourism activity whether or not the participant paid to participate in the activity. In no instance shall agritourism activities be interpreted as including camping, ATV or Dirt bike facilities, 4-wheeler or “Jeep”, archery or gun clubs, or any other facilities that make commercial use of rural property that is unrelated to on-site agricultural production.

The following additional standards apply:

- a. Parking Requirement: Adequate off-street parking, approved as condition of Special Use permit. At least one handicap parking space shall be provided with the remainder

of non-handicap parking not required to be paved. If determined necessary by ordinance, additional handicap parking shall be provided

- b. Food sales/service, wastewater/sewage disposal and potable water supplies shall meet the requirements of the Menard County Health Department
- c. Such permit shall not be valid for more than (8) months (April 1 – December 1) out of each calendar year as a condition of the Special Use in effect
- d. Such Special Use, when granted, shall apply to only the original applicant
- e. The application for such permitting shall list the types of produce sold, or offered for sale, which are grown or are to be grown on said parcel and shall also list the types of produce to be imported for sale

Roadside produce stands are exempt from these requirements.

1525.09 AGRICULTURAL EXPERIENCES. Will be allowed as a secondary use in conjunction with the primary agricultural production on a farm operation. It shall be defined [505 ILCS 10/1-5] as a farm which activity is open to the public with the intended purpose of promoting or educating the public about agriculture, agricultural practices, activities, or products only.

No Special Use permitting will be required in this specific instance.

## **SECTION 1526 LIGHTING**

1526.01 LIGHTING CONTROLS. Any light used for the illumination of signs, swimming pools, or for any other purpose shall be arranged so as to confine the direct light rays away from neighboring residential properties and away from the vision of passing motorist.

## **SECTION 1527 PUBLIC BUILDINGS**

1527.01 SETBACK AND STORAGE. In any district where municipally owned or other publicly owned buildings are permitted, the following additional requirements shall be met:

- a. In any residential or conservation district, all municipal or other publicly-owned buildings shall be located at least **twenty-five (25) feet** from all property lines

- b. In any residential, conservation or business district, there shall be no permanent storage of heavy construction or maintenance equipment (such as excavating, road building, or hauling equipment), unless in an enclosed building or enclosed within a solid wall or fence at least **six (6) feet** in height. Such storage areas, maintenance yards, or storage warehouses shall be located at least **twenty-five (25) feet** from any front or side property line

## **SECTION 1528 REFUSE, WASTE AND NUISANCE ABATEMENT**

### 1528.01 REFUSE STORAGE AND HANDLING.

All refuse shall be disposed of at a site licensed and approved by the Illinois Environmental Protection Agency. The location and methods of operation for final disposal of refuse shall conform with the requirements of the Illinois Refuse Disposal Law and the Menard County Refuse Disposal Ordinance, copies of which shall be on file at the Menard County Clerk's Office. No person shall deposit or permit to remain in any waterway, drainage ditch, or confined waters within Menard County any garbage, rubbish, junk, ashes, refuse or similar matter that may attract or harbor flies, rodents, vermin, or mosquitoes; create offensive odors or unsightliness; or otherwise create a health hazard or results in the existence of a nuisance condition.

1528.02 REFUSE STORAGE. Garbage shall be drained and stored in durable, nonabsorbent water tight and easily cleanable containers, which shall have close fitting covers, including durable plastic garbage bags. Ashes shall be stored in durable, fire resistant containers with close fitting lids. Ashes containing hot embers shall not be placed in a container for collection. Rubbish shall be stored in durable containers with close fitting covers except that bulky rubbish such as trees, weeds and large cardboard boxes may be bundled as not to be scattered by winds.

### 1528.03 DANGEROUS AND HAZARDOUS

MATERIALS. All dangerous and hazardous materials or substances such as poisons, acids, caustics, pesticides, infested materials, explosives, and solid wastes resulting from industrial processes shall not be mixed and/ or stored with or collected with refuse as defined in this Ordinance. Such dangerous and hazardous materials or substances shall be stored, collected, and disposed of in a manner prescribed by the applicable State Statute.

1528.04 VACATED PREMISES. Any person(s) occupying or controlling any lot, building or structure shall cause to be removed therefrom all garbage and refuse, before vacating the premises.

1528.05 NUISANCES. No person shall create or cause the continuance of a nuisance in Menard County, Illinois. All nuisances as defined hereafter, and as recognized by the common law and the statutes of the State of Illinois may be treated as such and proceeded against in accordance with the recognized remedies for abating and enjoining nuisances and/or in accordance with Section 1528.07 of this Ordinance.

1528.06 CHRONIC NUISANCES. Upon determination by the County Planning and Zoning staff that a property is a chronic nuisance as defined in this Ordinance, the staff member shall cause to be served upon the owner of such property a notice that the property has been found to be a chronic nuisance property. If the owner of such property cannot be located after reasonable efforts, the notice required by this provision may be served upon the occupant of the property or upon any person causing, permitting, or maintaining any then-existing nuisances on the property, including but not limited to a tenant on the property. The notice shall direct the recipient of the notice to abate or remove such nuisance within seventy-two (72) hours or such time as is deemed reasonable by the County Planning & Zoning staff, and shall state that if the nuisance is not abated or removed in such time, the County may take appropriate action to abate or remove such nuisance at the sole cost and expense of the recipient of the notice, provided the County may also take such additional remediation steps as provided by law. Such notice may be personally delivered to a person as described above, or may be mailed by certified United States mail, return receipt requested, to a person as described above. Such notice shall be considered effective upon any of the following (A) receipt of a hand delivered notice, (B) four (4) days after mailing the certified letter, or (C) upon receipt of a signed returned receipt, whichever occurs first.

1528.07 DECLARED NUISANCES PREJUDICIAL TO THE PUBLIC HEALTH. It is hereby declared that the following are nuisances, but are not inclusive of all conditions or acts which may give rise to the creation or continuance of a nuisance.

1. To allow the carcasses of dead animals or any part of decaying animal matter to remain not buried, destroyed, or collected, within 24 hours after death or dismemberment

2. To throw or deposit any offal, refuse, junk, or the carcass of any dead animal, in any water course, lake, pond, spring, well or common sewer, street or public roadway.
3. To corrupt or render unwholesome or impure the water of any spring, river, stream, pond, or lake
4. To allow a diseased animal to run at large
5. To allow excessive amounts of manure, refuse, human or noxious or offensive waste to accumulate. This excludes the normal storage of manure on a farm
6. To allow any discharge of raw or insufficiently treated human waste or sewage onto the surface of the ground or into any water course, spring, lake, pond, or well through either direct or indirect means
7. To allow any waste from commercial or industrial facilities to accumulate or to become foul, offensive or to otherwise become a health hazard
8. To allow any wells or cisterns to remain open
9. To allow an abandoned refrigerator to remain on any premises that does not have the doors, lock, or latches removed
10. To allow any building, mobile home, shed, fence, or other manmade structure to exist which is dangerous to public health because of its condition, construction, or lack of proper repair and which may cause or aid in the spread of disease or injury to the health of the occupants and/or neighboring structures and occupants
11. To allow the spillage, scatter, or loss of refuse from any vehicle that is used to transport garbage or refuse
12. Any place harboring vermin and/or rodents
13. To cause or to allow any ashes, garbage, junk, refuse, rubbish, vermin, or weeds to be stored, handled, disposed, or to collect or accumulate upon any public or private property contrary to the provisions of this Ordinance, and to do or to cause or to allow the occurrence or continuance of any other act of things contrary to the provisions of this Ordinance
14. All other acts, practices, conduct, business, occupants, callings, trades, uses of property and all other things detrimental or certain to be detrimental to the health of the inhabitants of Menard County, Illinois
15. The keeping, storage, depositing or accumulation of dirt, sand, gravel, concrete, or other similar materials for an unreasonable period, which constitutes

visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to nearby property or property values

16. The keeping, storage, depositing or accumulating of bulk waste. The keeping of bulk waste shall not be permitted on open porches, carports, open garages, pavilions, or similar structures

#### 1528.08 INOPERABLE AND ABANDONED

VEHICLES. No owner shall store, accumulate, discharge, deposit, dump or place any abandoned or derelict vehicle or vehicles on any premises if the vehicle or vehicles meet any one of the following conditions:

1. There is an absence of an appropriate registration plate or, if there is an appropriate registration plate, if that plate does not display a current and valid registration sticker
2. Placement of the vehicle or parts thereof upon jacks, chains, or other supports
3. Absence of one or more parts of the vehicle necessary for the lawful operation upon the streets, roads, and highways
4. To be found in violation of this, such vehicles must exhibit at least one of the above-described conditions for not less than 180 consecutive days

In addition to any other penalties under the zoning regulations in the county, it shall be a violation of this chapter if a junkyard is created or maintained in areas other than those permitted by their zoning classification to contain junkyards.

Nothing in this Section shall apply to any motor vehicle that is kept within a building when not in use, to historic vehicles over 25 years of age, or to a motor vehicle on the premises of a place of business engaged in the wrecking or junking of motor vehicles. (55 ILCS 5/5-12002) (from Ch. 34, par. 5-12002)

The storage of trucks, tractors, and related machinery for agricultural purposes, whether or not in functional operational condition, is exempt from the provisions of this chapter provided that the zoned lot on which such storage for agricultural purposes and said machinery of the like is used principally for agricultural purposes.

1528.09 LITTERING. No person shall litter from any motor vehicle or otherwise dump, deposit, drop, throw, discard, leave, cause, or permit the dumping, depositing, dropping, throwing, discarding, or leaving of litter upon any public or private property or upon

or into any river, lake, pond, or other stream of body of water in the county, unless:

1. The property is duly licensed by the county as a refuse disposal area; or
  2. The litter is placed into a receptacle or other container intended by the owner or tenant, in lawful possession of that property for the deposit of litter
  3. The act is done by or under the personal direction of the owner or tenant in lawful possession of that property and does not create a public health or safety hazard, public nuisance, or fire hazard
  4. The person is acting under the direction of proper public officials on a special clean-up day
  5. The person is lawfully acting or re-acting to an emergency situation where health and safety is threatened and removes and properly disposes of such litter when the emergency no longer exists
- A. No person shall transport by any means any refuse to and deposit such material in, around or on top of trash barrels or other receptacles placed along public highways or at roadside rest areas.
- B. No person shall allow litter to accumulate upon real property owned by or in the control of that person as owner or tenant, in such manner that the litter may be blown or otherwise carried by the natural elements onto real property of the public or another person.
- C. Whenever litter is thrown, deposited, dropped, or dumped from a motor vehicle not carrying passengers for hire, in violation of this chapter, the rebuttable presumption is created that the operator of the motor vehicle has violated this chapter by littering.

1528.10 NOXIOUS WEEDS. Shall be defined per the Illinois Department of Agricultural (505 ILCS100/1) —Illinois Noxious Weeds Law. Noxious weed nuisances will be enforced under provisions of this statute.

1528.11 NOXIOUS SMELLS AND CONDITIONS.

No person shall deposit or dump or maintain, or cause or permit the same, on any land in the county, any refuse, garbage, or rubbish which creates a condition that is foul, odorous, subject to spontaneous combustion, creates a breeding ground for rodent infestation, or is otherwise detrimental to public health or safety or conducive to the spread of disease. No person shall keep any chicken coop, corral, animal pen, stable, grounds or premises in a foul, offensive, nauseous, or filthy condition.

All manure waste from animals must be removed from the premises and stored in a fly tight container or otherwise meet the Environmental Protection Agency (EPA) regulations regarding manure storage. No manure storage shall be closer than 75 feet from all property lines.

Farming operations such as cattle, hogs, sheep, or poultry, are exempt from this category.

1528.12 UNFIT STRUCTURES AND PREMISES.

No owner shall allow, permit, or suffer any structure or premises under his/her control to become unfit by reason of:

1. Structures and dwellings' instability and/or inadequacy, rendering any structure to be unfit for occupancy or use
2. Accumulation of garbage, rubbish, standing water, or other condition which is likely to become an area that promotes and harbors the breeding of rodents, vermin, mosquitoes, or other harmful insects
3. Promoting, permitting, or allowing any structure to be used for the unlawful purpose of illegal sale of controlled substance or for other illegal activity dangerous to the health or safety of residents of the neighborhood or to the public
4. Structures and dwellings instability and/ or in adequacy rendering any structure to be unfit for occupancy or use
5. Accumulation of garbage or rubbish or standing water or other condition which is likely to become an area that promotes and harbors the breeding of rodents, vermin, mosquitoes, or other harmful insects
6. Promoting, permitting, or allowing any such structure to be used for the unlawful purpose of illegal sale of controlled substance or for other illegal activity dangerous to the health or safety of residents of the neighborhood or to the public

1528.13 ENFORCEMENT PROVISIONS.

- A. INSPECTION. The Menard County Zoning Office is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this Ordinance. The authorized representative of the Menard County Zoning Office, after proper identification and statement of the reason(s) for the visit shall be permitted by the owner or occupants of the property to have access to the property at any reasonable time for the purpose of inspecting to determine compliance with the requirements of this Ordinance.

- B. ABATEMENT OF DECLARED NUISANCE.** When an authorized representative of the Zoning Office discovers any violation of Section 1528 of this Ordinance, the person, firm, or corporation causing or allowing such violation shall be notified by the Menard County Zoning Office by means of a written notice of inspection and request to abate the violation sent to the last known address. Such notice and request shall describe the specific conditions found, the correction necessary to bring about compliance, and a specific and reasonable period for such correction. Each condition specified in such notification shall constitute a separate violation of this Ordinance.
- C. FINES AND PENALTIES.** Any person, firm, or corporation who maintains a nuisance as defined herein, or who fails to comply with an order of the Zoning Office issued under the provisions hereof, or who violates any provision of this Ordinance shall be guilty of a misdemeanor, and shall be subject, upon conviction, to a fine of not less than \$25.00 and not more than \$500.00. Each day that such nuisance, condition, or violation occurs or continues shall be deemed to be a separate offense. A person found to have a chronic nuisance property shall be fined not less than \$500 nor more than \$1,000; furthermore, each day the violation is allowed to continue shall be a separate offense. In addition, such person, firm, or corporation may be enjoined from continuing such violation. The State's Attorney of Menard County, Illinois, shall prosecute all violations of this Ordinance.
- D. LIEN.** Charges for the cost incurred by the County for the abatement of a violation from any property pursuant to the Ordinance shall be a lien upon the premises with priority as provided in Illinois Compiled Statutes 1992 65 ILCS 5/11-20-13 as amended. At any time after a bill has been sent to the owner for abatement of the violation a lien may be filed with the Recorder of Deeds in the manner provided by paragraph 1 of 65 ILCS 5/11-20-13. The failure of the County to record such lien claimed or to mail notice or the failure of the owner to receive notice of such lien shall not affect the right to foreclose on the lien for such charges as provided in Illinois Compiled Statutes 1992 65 ILCS 5/11-20-13. For the purpose of this section, the County shall be deemed to incur

the cost of the abatement. If the abatement is done by County personnel the cost transmitted by the Superintendent of the Department which performs the abatement to the Planning & Zoning Officer, a calculation of the number of hours required to do the abatement by those employees times the hourly wage of said employees (including cost of benefits of employment per hour); the fair market rental of all pieces of equipment necessary to perform the abatement plus the cost of disposal of all materials removed. If the abatement is done by private contractor the amount said contractor invoices the County for work plus disposal of materials removed.

- E.** The remedies provided for in the Ordinance to abate and prosecute nuisances and violations hereof shall not be deemed to be mutually exclusive, and election to pursue one remedy shall not bar the simultaneous pursuit of any other administrative remedy.

## **SECTION 1529 NOISE**

**1529.01 PURPOSE.** To prevent noise pollution in that excessive noise endangers physical and emotional health and well-being, interferes with legitimate business and recreational activities, depresses property values, offends the senses, creates public nuisances, and in other respects reduces the quality of our environment.

**1529.02 DEFINITIONS.** Whenever used in this Ordinance, unless otherwise clearly indicated, the following words and phrases shall have the following meaning:

**1529.03 NOISE DISTURBANCE.** Any sound which may do the following:

- a) causes annoyance or disturbs humans or which has any adverse psychological or physiological effects on humans
- b) endangers or injures the health or safety of humans or animals
- c) causes annoyance or disturbance to a reasonable person of normal sensitivities or
- d) endangers or injures personal or real property

**1529.04 REAL PROPERTY BOUNDARY.** A line along the ground surface and its vertical extension which separates the real property owned by one (1) person from that owned by another person.

1529.05 RESIDENTIAL AREA. An area of real property in which a residence is located and occupied.

1529.06 HOLIDAYS. For purposes of the application of this section, the following shall be considered holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.

1529.07 NOISE PROHIBITIONS:

- a) It shall be declared a nuisance for any person to make, continue, or cause to be made or continued any loud, unreasonably loud, disturbing, unnecessary or excessive noise which unreasonably interferes with the comfort, health, or safety of others
- b) It shall be declared a nuisance for any person to permit any noise as described in paragraph (a) of this Section to be made in or upon any house or premises owned or possessed by them or under their management and/or control

1529.08 SPECIAL VIOLATIONS. The following shall be declared a nuisance:

- a) For a motor vehicle operator to operate or play any radio, musical instrument, or similar device from said motor vehicle in such a manner as to be plainly audible to any other person other than the player or operator of the device at a distance of twenty (20) feet
- b) For a pedestrian to operate or play any radio, musical instrument, or similar device in such a manner as to be plainly audible to any other person other than the player or operator of the device at a distance of thirty (30) feet
- c) For any person to operate or play any radio, television, musical instrument, or similar device or to produce live music, sound or noise in any manner which produces or reproduces sound or noise, whether from a business, residence, or any other premises, in such a manner as to be plainly audible outside of the real property boundary of such business, residence or other premises between the hours of 10:00 p.m. and 9:00 a.m., Central Standard Time (CST)
- d) For any person to operate or permit the operation of any tools or equipment used in construction, drilling, or demolition work in such a manner that the sound there from

creates a noise disturbance across a residential real property boundary. at any of the following times:

- 1. Between 10:00 p.m. and 6:00 a.m., Central Standard Time (CST) on any day of the week
  - 2. At any time on any Sunday or holiday
- e) For any person to operate or permit the operation of any mechanically powered saw, sander, drill, grinder, lawn, or garden tool used outdoors in residential areas between the hours of 10:00 p.m. and 6:00 a.m., Central Standard Time (CST) so as to cause a noise disturbance across a residential real property boundary.
  - f) For any person to operate a motor vehicle or any internal combustion engine, which is excessively loud, so as to disturb the quiet, comfort, or repose of persons across a residential real property boundary. This includes excessive noise levels as the result of a defective or modified exhaust system or as a result of any one or more of the following: unnecessary rapid acceleration, deceleration, engine revving or tire squealing.
  - g) For any person to discharge firearms in any residential area where such discharge is likely to subject residents or passersby to the risk of injury. However, the ordinance shall not limit the right to discharge a firearm for the lawful defense of persons or property, or in the course of making a lawful arrest, when such use of force is justified under Article 7 of the Criminal Code of 2012. For the purposes of this Section, a "residential area" is any area within 300 yards of at least 3 single or multi-family residential structures. (55 ILCS 5/5-1117) (from Ch. 34, par. 5-1117).

Public service utilities are exempt from this provision. Further, no person shall be adjudicated guilty of this provision if he demonstrates the existence of a bona fide emergency that necessitated performance of the work during prohibited hours.

1529.09 EXCEPTIONS.

- a) Special performances by a band or orchestra after permits have been obtained from the County Sheriff
- b) Ringing of bells or chimes by churches

- c) Any noises or sounds produced by police, fire, rescue or other emergency vehicles or personnel
- d) Organized school-related programs, activities, and other events
- e) Organized public programs, activities, events, and parades or other public programs, activities or events authorized by county government
- f) Normal agricultural activities, including normal grain elevator operations

#### 1529.10 AUTHORITY OF THIS ORDINANCE.

This Ordinance shall take precedence over any neighborhood covenants.

#### 1529.11 PENALTY.

It shall be unlawful to violate any of the terms and provisions of this Ordinance. Any person, firm, or corporation violating any of the said terms and provisions of the Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by fines as follows:

- a) For the first offense, the minimum fine shall be \$50.00 and the maximum fine shall be \$500.00
- b) For any subsequent offense, the minimum fine shall be \$150.00 and the maximum fine shall be \$1000.00
- c) Community Service hours may be ordered by the Court in addition to the above mentioned fines and if ordered, said hours must be served within one (1) year of the date sentence is imposed by proper authorities
- d) The violation of this Ordinance or any part thereof on more than one (1) day shall constitute separate offenses

### **SECTION 1530 DEMOLITION PERMIT**

1530.01 PERMITTING. To obtain a demolition permit for deconstruction, recycling or scrapping of a manufactured, mobile home, pole, barn, portable building, accessory building, shed, railroad car or containers, the following documentation will be required:

- 1. Proof of ownership
- 2. No Tax Due letter from the County Treasurer

- 3. Agreement with Illinois licensed scrapper or landfill
- 4. Detailed information on the nature of demolition
- 5. Proof of disconnection of utility services

### **SECTION 1531 ACCESSORY STRUCTURE CONVERSION**

1531.01 GENERAL. Accessory mobile homes, portable sheds, pole barns, sheds, railroad cars, or containers shall not be used for permanent habitation or for business purposes.

1531.02 CONVERSION. Should permanent habitation conversion be pursued, Pole barns, railroad cars or containers must meet all State, Federal and County residential requirements concerning building construction and most recent building code requirements to be converted into a residential structure. The owner must follow the application procedure outlined in the *Code of Ordinances* and all adopted codes of the County to be issued a building permit and a Certificate of Occupancy.

1531.03 PERMITTING. A permit must be obtained for Accessory mobile homes, portable buildings, sheds, pole barns, carports, and containers **before** being placed or moved upon any lot or tract or parcel of land to ensure the structure is in compliance with Ordinances of Menard County and state statutes.

### **SECTION 1532 DATA CENTERS**

1532.01 PURPOSE AND INTENT. The purpose of these regulations is to provide a uniform and comprehensive set of standards for the installation and location of a Data Center. The intent of these regulations is to protect the public health, safety, and community welfare without unduly restricting the development of a Data Center.

1532.02 SPECIAL REQUIREMENTS. Data Centers are subject to the following requirements:

- A. Height. Shall not exceed fifty (50) feet including any roof-mounted equipment or antennas.
- B. Setbacks.
  - 1. Perimeter Setback: The front, side, and rear yard setbacks shall be a minimum of one hundred fifty (150) feet from the

- property lines which form the outside perimeter of a Data Center Project Area.
2. Residential Structure Setback: Data Centers of twenty-five (25) feet or less in height shall be setback seven hundred fifty (750) feet from the Data Center project property line to a residential structure. Data Centers greater than twenty-five (25) feet in height shall be setback from residential structures thirty (30) times the height of the Data Center. However, suppose the developer of the facility can obtain and record with the Sangamon County Recorder a written, signed, and notarized statement from the owner of the property containing said structure waiving this setback. In that case, the minimum setback from said structure shall be reduced to two hundred (200) feet.
  - C. Fencing. A fence of at least six (6) feet in height shall enclose and secure the Data Center.
  - D. Screening. A landscaping screen shall be provided for any part of the Data Center that is visible to and located within five hundred (500) feet of an existing dwelling. The landscaping screen shall be located between the required fencing and the perimeter of the Data Center Project Area. The screening shall include a continuous line of native evergreen foliage, and/or native shrubs, and/or native trees, and/or any existing wooded area. The landscaping shall not be required if the Data Center is not visible to a dwelling by virtue of the existing topography as determined by the Menard County Zoning Administrator.
  - E. Lighting. If lighting is provided at the project, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel.
  - F. Noise. Noise levels measured at the property line shall not exceed fifty (50) decibels when located adjacent to an existing residence or residential district. Noise levels shall be enforced by both the State of Illinois and Sangamon County.
  - G. Battery Energy Storage Systems (BESSs) may be considered an accessory use to the development. A BESS and a Data Center may be located on the same parcel without requiring a variance to allow multiple principal uses on a lot.

1532.03 CERTIFICATION. Data Centers shall conform to applicable industry standards, including those from the Underwriters Laboratory (UL). All applicable county, state, and federal codes and regulations shall be followed.

1532.04 SPECIAL PERMITTED USE ONLY. The application for a Special Permitted Use for a Data Center shall include:

- A. A written summary of the project including:
  1. A general description of the project, including its approximate capacity;
  2. Number of structures;
  3. Number of generators; and,
  4. The system height.
- B. The name(s), address(s), and phone number(s) of the property owner and/or Data Center operator.
- C. A site plan showing the following:
  1. Boundaries of the site.
  2. Property lines.
  3. Setback lines.
  4. Existing or proposed easements.
  5. Location of all existing structures with their uses identified.
  6. All proposed structures including, but not limited to, the project Data Centers, the project substation, interconnection substation, Battery Energy Storage System (if applicable), and any ancillary equipment (if applicable).
  7. On-site vehicular circulation.
  8. Vehicular parking.
  9. Sidewalks.
  10. Fencing.
  11. The location and size of sanitary sewers and water mains if public facilities or approved community facilities are available. If public facilities are not available, the location of on-site systems shall be shown.
  12. Proposed site grading with elevations, including floodplain (if applicable).
  13. Storm water drainage including retention/detention areas.
  14. Fire hydrant locations (if applicable).
  15. Landscaping screening plan (if applicable).
- D. Letters from the serving utility companies indicating the availability and adequacy of utility services.
- E. Approval from the County Engineer and respective Road District Commissioner authorizing the access to any public roadway. The County Engineer shall also provide approval for all on-site drainage and

vehicular flow on the Data Center Project Area.

1532.05 BUILDING PERMIT. Before a building permit is issued, the following shall be submitted to the appropriate Sangamon County permitting office for review:

- A. An updated site plan with all items previously required in the petition.
- B. Emergency plan. The site and emergency plan shall be submitted to the local fire protection district(s) and/or department(s) whose jurisdiction is included in whole or in part within the Data Center Project Area. Any specialized training necessary will be provided at the operator's expense.
- C. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this ordinance.
- D. Results from the Illinois Department of Natural Resources' Ecological Compliance Assessment Tool (EcoCAT).

- E. Results from the consultation with the Illinois State Historic Preservation Office.
- F. After an approved final inspection of all building permits, a certificate of compliance shall be issued.

1532.06 CERTIFICATE OF OCCUPANCY. A

Certificate of Occupancy will be issued after all final inspections have been completed. A Certificate of Occupancy approval will be issued annually on the completion date and must include the following:

- A. A copy of the active insurance policy and expiration date.
- B. The name(s), address(s), and phone number(s) of the property owner and/or Data Center operator.
- C. Any alterations to the site.
- D. Annual fee \$500.

## SIGN REGULATIONS

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### User note:

**About this chapter:** The primary purpose of Chapter 10 is to establish the regulation for the use of signs and sign structures, including general signs, roof signs, wall signs, and fascia signs. This chapter also contains the general provisions that apply to sign placement, maintenance, repair, and removal, as well as requirements for wall, free-standing, directional and temporary signs.

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### SECTION 1601 PURPOSE

**1601.1 PURPOSE.** The purpose of this chapter is to protect the safety and orderly development of the community through the regulation of signs and sign structures.

### SECTION 1602 DEFINITIONS

**1602.1 DEFINITIONS.** The following words and terms shall, for the purposes of this chapter and as used elsewhere in this code, have the meanings shown herein.

**ABANDONED SIGN.** A sign structure that has ceased to be used, and the owner intends no longer to have used, for the display of sign copy, or as otherwise defined by state law.

**ANIMATED SIGN.** A sign employing actual motion or the illusion of motion. Animated signs, which are differentiated from changeable signs as defined and regulated by this code, include the following types:

**Electrically activated.** Animated signs producing the illusion of movement by means of electronic, electrical, or electro-mechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both classifications noted in Items 1 and 2 as follows:

1. Flashing. Animated signs or animated portions of signs where the illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination. For the purposes of this ordinance, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds 4 seconds
2. Patterned illusionary movement. Animated signs or animated

portions of signs where the illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion

**Environmentally activated.** Animated signs or devices motivated by wind, thermal changes, or other natural environmental input. Includes spinners, pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.

**Mechanically activated.** Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

**ARCHITECTURAL PROJECTION.** Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, but that does not include signs as defined herein. See also "Awning;" "Backlit awning;" and "Canopy, Attached and Free-standing."

**AWNING.** An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or nonrigid materials and/or fabric on a supporting framework that may be either permanent or retractable, including such structures that are internally illuminated by fluorescent or other light sources.

**AWNING SIGN.** A sign displayed on or attached flat against the surface or surfaces of an awning. See also "Wall or fascia sign."

**BACKLIT AWNING.** An awning with a translucent covering material and a source of illumination contained within its framework.

**BANNER.** A flexible substrate on which copy or graphics may be displayed.

**BANNER SIGN.** A sign utilizing a banner as its display surface.

**BILLBOARD.** See “Off-premise sign” and “Outdoor advertising sign”.

**BUILDING ELEVATION.** The entire side of a building, from ground level to the roofline, as viewed perpendicular to the walls on that side of the building.

**CANOPY (Attached).** A multisided overhead structure or architectural projection supported by attachments to a building on one or more sides and either cantilevered from such building or supported by columns at additional points. The surface(s) and/or soffit of an attached *canopy* may be illuminated by means of internal or external sources of light. See also “Marquee”.

**CANOPY (Free-standing).** A multisided overhead structure supported by columns, but not enclosed by walls. The surface(s) and or soffit of a free-standing *canopy* may be illuminated by means of internal or external sources of light.

**CANOPY SIGN.** A sign affixed to the visible surface(s) of an attached or free-standing *canopy*. For reference, see Section 1603.

**CHANGEABLE SIGN.** A sign with the capability of content change by means of manual or remote input, including signs that are:

**Electrically activated.** Changeable sign where the message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also “Electronic message sign or center”

**Manually activated.** Changeable sign where the message copy or content can be changed manually

**COMBINATION SIGN.** A sign that is supported partly by a pole and partly by a building structure.

**COPY.** Those letters, numerals, figures, symbols, logos, and graphic elements comprising the content or message of a sign, excluding numerals identifying a street address only.

**DEVELOPMENT COMPLEX SIGN.** A free-standing sign identifying a multiple-occupancy development, such as a shopping center or planned *industrial* park, that is controlled by a single owner or landlord, approved in accordance with Section 1609.2 of this chapter.

**DIRECTIONAL SIGN.** Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

**DOUBLE-FACED SIGN.** A sign with two faces, back-to-back.

**ELECTRIC SIGN.** Any sign activated or illuminated by means of electrical energy.

**ELECTRONIC MESSAGE SIGN OR CENTER.** An electrically activated changeable sign where the variable message capability can be electronically programmed.

**EXTERIOR SIGN.** Any sign placed outside a building.

**FASCIA SIGN.** See “Wall or fascia *sign*”.

**FLASHING SIGN.** See “Animated *sign*, electrically activated”.

**FREE-STANDING SIGN.** A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles or braces placed in or on the ground. For visual reference, see Section 1603.

**FRONTAGE (Building).** The length of an exterior building wall or structure of a single premise orientated to the public way or other properties that it faces.

**FRONTAGE (Property).** The length of the property line(s) of any single premise along either a public way or other properties on which it borders.

**GROUND SIGN.** See “Free-standing *sign*.”

**ILLUMINATED SIGN.** A sign characterized using artificial light, either projecting through its surface(s) (internally illuminated); or reflecting off its surface(s) (externally illuminated).

**INTERIOR SIGN.** Any sign placed within a building, but not including “window signs” as defined by this ordinance. Interior signs, except for window signs as defined, are not regulated by this chapter.

**MANSARD.** An inclined decorative roof-like projection that is attached to an exterior building facade.

**MARQUEE.** See “*Canopy (attached)*”.

**MARQUEE SIGN.** See “*Canopy sign*”.

**MENU BOARD.** A free-standing sign orientated to the drive-through lane for a restaurant that advertises the menu items available from the drive-through window, and which has not more than 20 percent of the total area for such a sign utilized for business identification.

**MULTIPLE-FACED SIGN.** A sign containing three or more faces.

**OFF-PREMISE SIGN.** See “Outdoor advertising *sign*”.

**ON-PREMISE SIGN.** A sign erected, maintained, or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

**OUTDOOR ADVERTISING SIGN.** A permanent sign erected, maintained, or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

**PARAPET.** The extension of a building facade above the line of the structural roof.

**POLE SIGN.** See “Free-standing sign.”

**POLITICAL SIGN.** A temporary sign intended to advance a political statement, cause, or candidate for office. A legally permitted outdoor advertising sign shall not be a political sign.

**PORTABLE SIGN.** Any sign not permanently attached to the ground or to a building or building surface.

**PROJECTING SIGN.** A sign other than a wall sign that is attached to or projects more than 18 inches (457 mm) from a building face or wall or from a structure where the primary purpose is other than the support of a sign. For visual reference, see Section 1603.

**REAL ESTATE SIGN.** A temporary sign advertising the sale, lease or rental of the property or premises on which it is located.

**REVOLVING SIGN.** A sign that revolves 360 degrees (6.28 rad) about an axis. See also “Animated sign, mechanically activated.”

**ROOF LINE.** The top edge of a peaked roof or, in the case of an extended facade or parapet, the uppermost point of said facade or parapet.

**ROOF SIGN.** A sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and that is wholly or partially supported by such a building. Signs mounted on mansard facades, pent eaves, and architectural projections such as canopies or marquees shall not be roof signs.

For a visual reference, and a comparison of differences between roof and fascia signs, see Section 1603.

**SIGN.** Any device visible from a public place that displays either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. Noncommercial flags or any flags displayed from flagpoles or staffs will not be signs.

**SIGN AREA.** The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, that comprise the sign face. The area of any double-sided or “V” shaped sign shall be the area of the largest single face only. The area of a sphere shall be computed as the area of a circle. The area of all

other multiple-sided signs shall be computed as 50 percent of the sum of the area of all faces of the sign.

**SIGN COPY.** Those letters, numerals, figures, symbols, logos, and graphic elements comprising the content or message of a sign, exclusive of numerals identifying a street address only.

**SIGN FACE.** The surface on, against or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, nonstructural or decorative trim, or any areas that are separated from the background surface on which the sign copy is displayed by a distinct delineation, such as a reveal or border. See Section 1603.

1. In the case of panel or cabinet-type signs, the sign face shall include the entire area of the sign panel, cabinet, or face substrate on which the sign copy is displayed or illustrated, but not open space between separate panels or cabinets
2. In the case of sign structures with routed areas of sign copy, the sign face shall include the entire area of the surface that is routed, except where interrupted by a reveal, border, or a contrasting surface or color
3. In the case of signs painted on a building, or individual letters or graphic elements affixed to a building or structure, the sign face shall comprise the sum of the geometric figures or combination of regular geometric figures drawn closest to the edge of the letters or separate graphic elements comprising the sign copy, but not the open space between separate groupings of sign copy on the same building or structure
4. In the case of sign copy enclosed within a painted or illuminated border, or displayed on a background contrasting in color with the color of the building or structure, the sign face shall comprise the area within the contrasting background, or within the painted or illuminated border

**SIGN STRUCTURE.** Any structure supporting a sign.

**TEMPORARY SIGN.** A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.

**UNDER CANOPY SIGN OR UNDER MARQUEE SIGN.**

A sign attached to the underside of a canopy or marquee.

**V SIGN.** Signs containing two faces of approximately equal size, erected on common or separate structures, positioned in a “V” shape with an interior angle between faces of not more than 90 (1.57 rad) degrees with the distance between the sign faces not exceeding 5 feet at their closest point.

**WALL OR FASCIA SIGN.** A *sign* that is in any manner affixed to any exterior wall of a building or structure and that projects not more than 18 inches (457 mm) from the building or structure wall, including signs affixed to architectural projections from a building provided that the copy area of such signs remain on a parallel plane to the face of the building facade or to the face or faces of the architectural projection to which it is affixed. For a visual reference and a comparison of differences between wall or fascia signs and roof signs, see Section 1603.

**WINDOW SIGN.** A *sign* affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.

## SECTION 1603 GENERAL SIGN TYPES

1603.01 GENERAL. Sign types and the computation of *sign* area shall be as depicted in Figures 1603.1(1) through 1603.1(4).

## SECTION 1604 GENERAL PROVISIONS

1604.01 CONFORMANCE TO CODES. Any sign hereafter erected shall conform to the provisions of this ordinance and the provisions of the *International Building Code* and of any other ordinance or regulation within this jurisdiction.

1604.02 SIGNS IN RIGHTS-OF-WAY. Signs other than an official traffic sign or similar sign shall not be erected within 2 feet of the lines of any street, or within any public way, unless specifically authorized by the County Highway Engineer, District Road Commissioner, other ordinances, or regulations of this jurisdiction or by specific authorization of the code official. See Section 1607.4 regarding fees and sign off authority.

1604.03 PROJECTIONS OVER PUBLIC WAYS. Signs projecting over public walkways shall be permitted to do so only subject to the projection and clearance limits either defined herein or, if not so defined, at a minimum height of 8 feet from *grade* level to the bottom of the sign. Signs, architectural

projections, or *sign* structures projecting over vehicular access areas must conform to the minimum height clearance limitations imposed by the jurisdiction for such structures.

1604.04 TRAFFIC VISIBILITY. Signs or sign structures shall not be erected at the intersection of any street in such a manner as to obstruct free and clear vision, nor at any location where by its position, shape, or color it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal, or device.

1604.05 COMPUTATION OF FRONTAGE. If a premises contains walls facing more than one property line or encompasses property frontage bounded by more than one street or other property usages, the sign area(s) for each building wall or property frontage will be computed separately for each building wall or property line facing a different frontage. The sign area(s) thus calculated shall be permitted to then be applied to permitted signs placed on each separate wall or property line frontage.

1604.06 ANIMATION AND CHANGEABLE MESSAGES. Animated signs, except as prohibited in Section 1606, are permitted in commercial and *industrial* zones only. Changeable signs, manually activated, are permitted for nonresidential uses in all zones. Changeable signs, electrically activated, are permitted in all nonresidential zones.

1604.07 MAINTENANCE, REPAIR, AND REMOVAL. Every sign permitted by this ordinance shall be kept in good condition and repair. Where any sign becomes insecure, in danger of falling or is otherwise deemed unsafe by the code official, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this ordinance, the owner thereof or the person or firm using same shall, upon written notice by the code official forthwith in the case of immediate danger, and in any case within not more than 10 days, make such sign conform to the provisions of this ordinance, or shall remove it. If within 10 days the order is not complied with, the code official shall be permitted to remove or cause such sign to be removed at the expense of the owner and/or the user of the sign.

1604.08 OBSOLETE SIGN COPY. Any *sign* copy that no longer advertises or identifies a use conducted on the property on which said *sign* is erected must have the sign copy covered or removed within 30 days after written notification from the code official;

## SIGN REGULATIONS

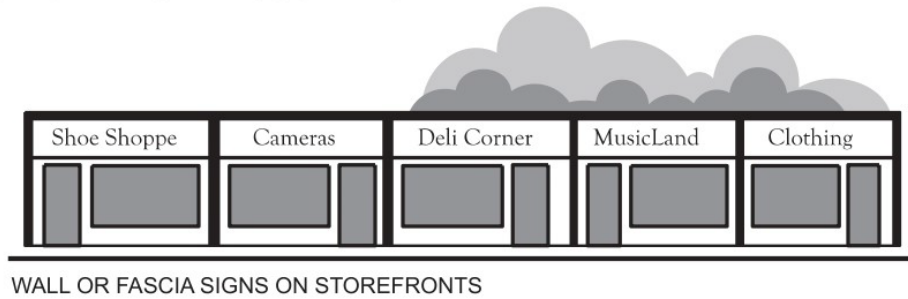
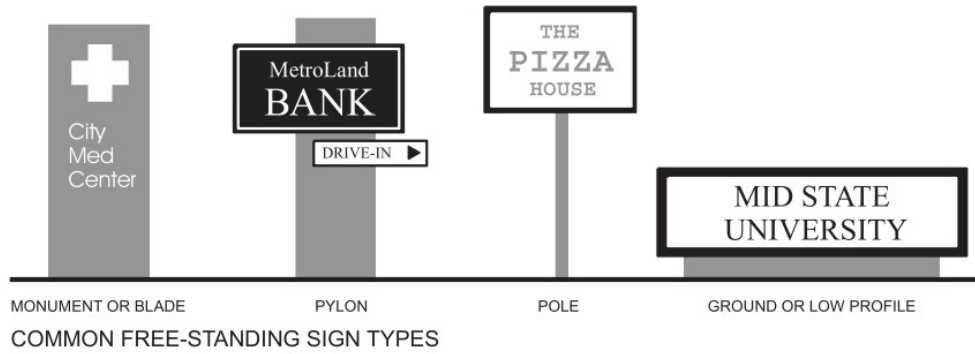


FIGURE 1603.1(1)  
GENERAL SIGN TYPES

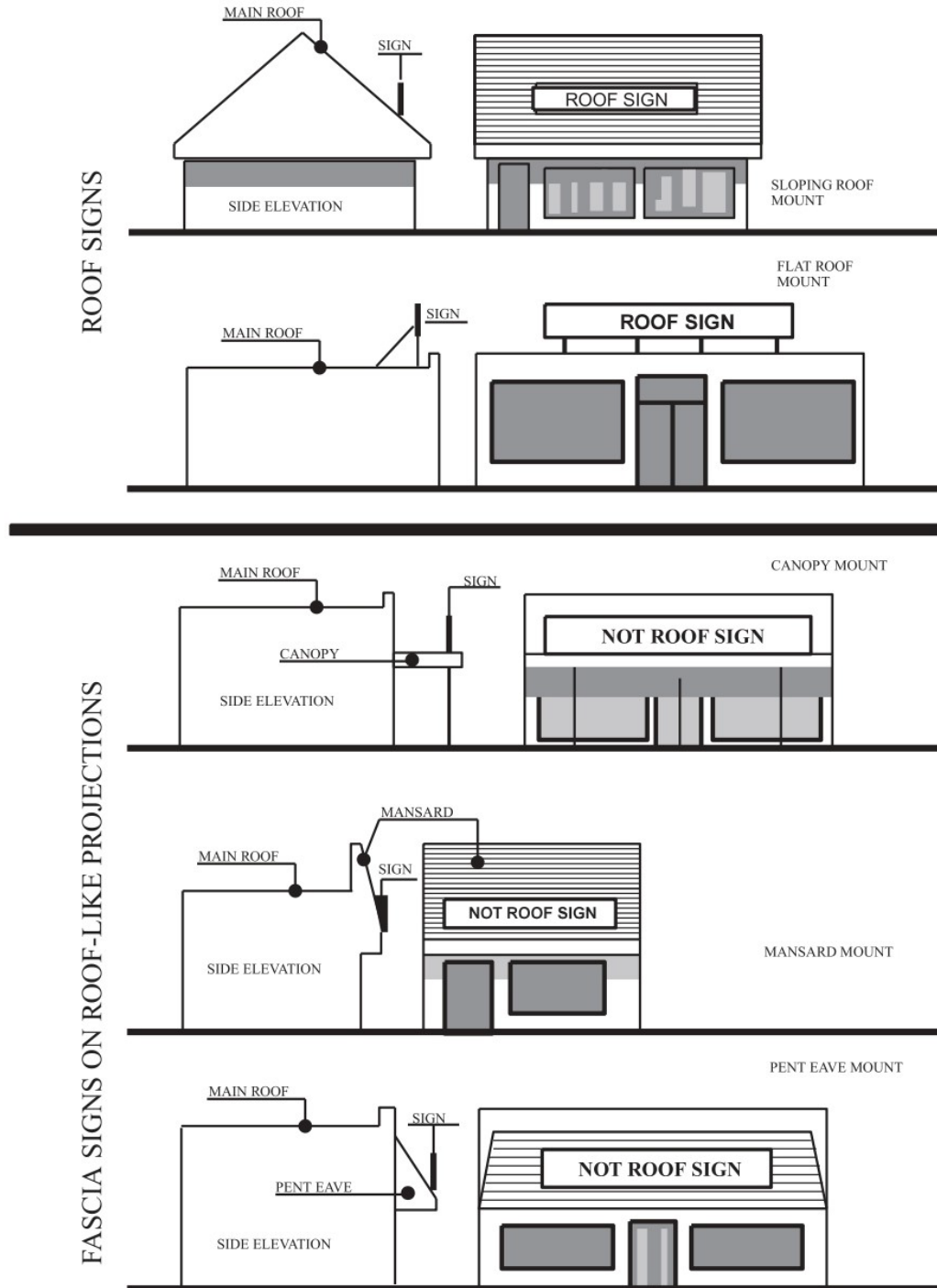
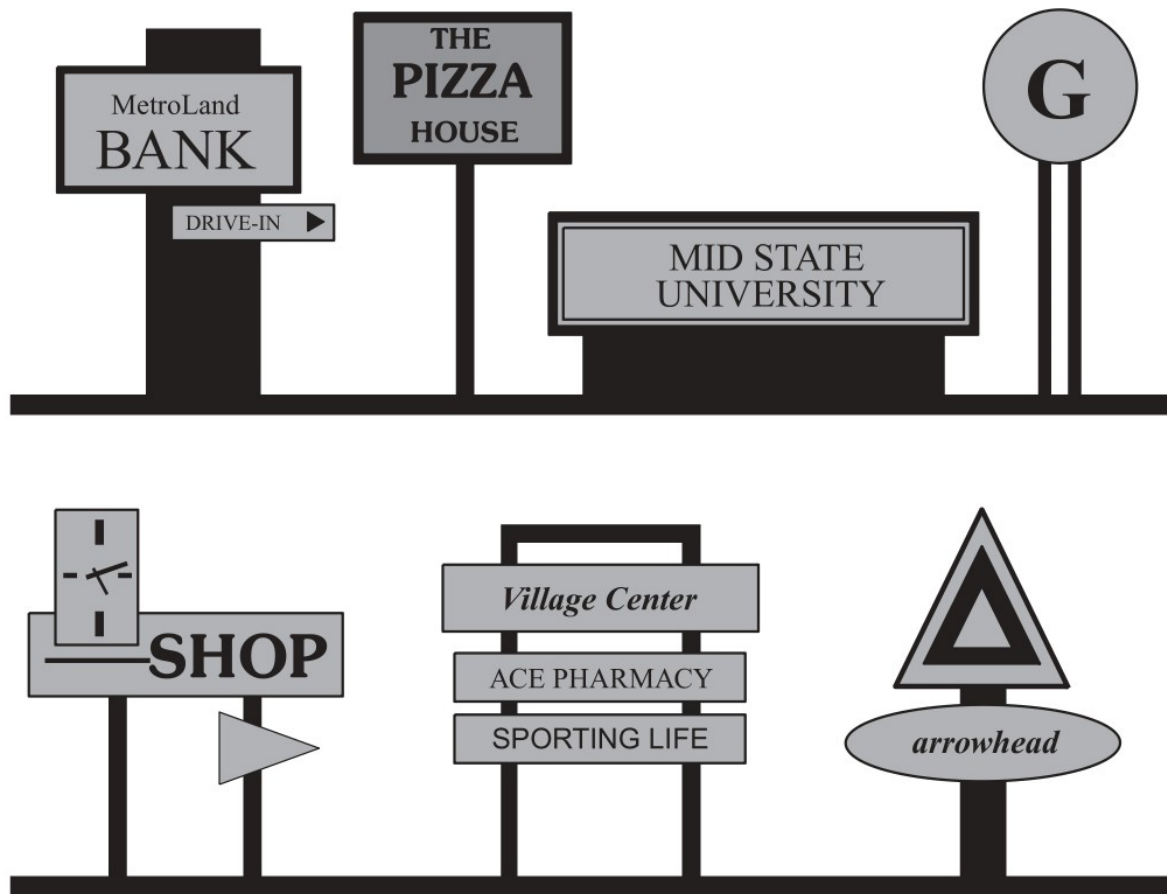
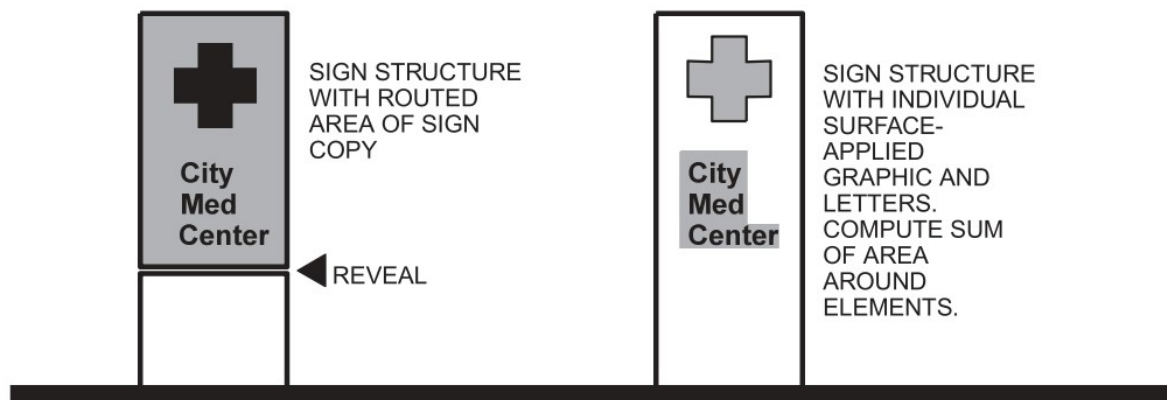


FIGURE 1603.1(2)  
COMPARISON—ROOF AND WALL OR FASCIA SIGNS

## SIGN REGULATIONS

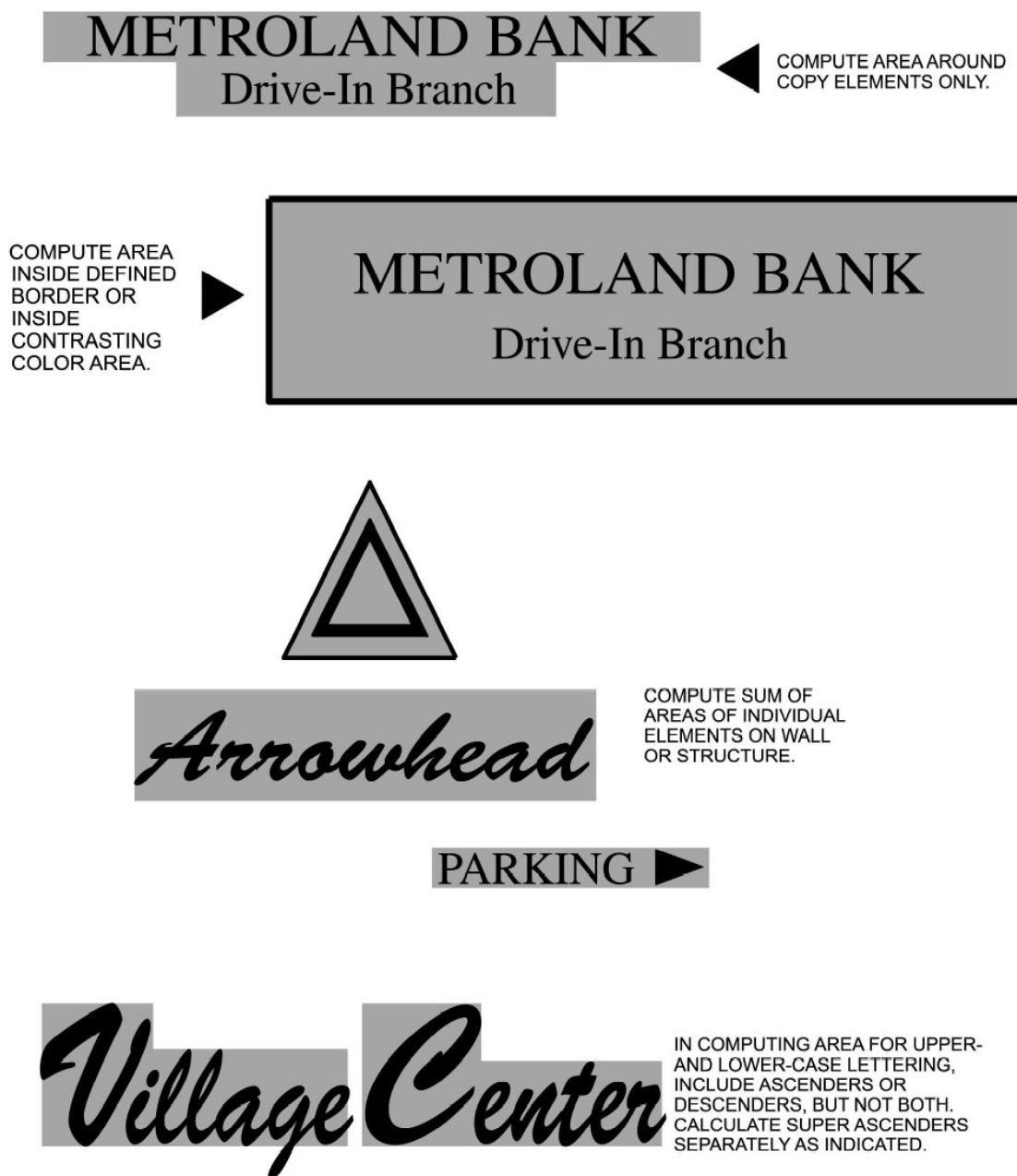


## SIGN STRUCTURES



**Notes:** Sum of shaded areas only represents sign area. Sign constructed with panels or cabinets.

**FIGURE 1603.1(3)**  
**SIGN AREA—COMPUTATION METHODOLOGY**



**Notes:** Sum of shaded areas only represents sign area for code compliance purposes. Examples of signs consisting of individual letters, elements or logos placed on building walls or structures.

FIGURE 1603.1(4)  
SIGN AREA—COMPUTATION METHODOLOGY

and upon failure to comply with such notice, the code official is hereby authorized to cause removal of such sign copy, and any expense incident thereto shall be paid by the owner of the building, structure, or ground on which the sign is located.

**1604.09 NONCONFORMING SIGNS.** Any sign legally existing at the time of the passage of this ordinance that does not conform in use, location, height, or size with the regulations of the zone in which such *sign* is located, shall be a legal nonconforming use or structure, and shall be permitted to continue in such status until such time as it is either abandoned or removed by its owner, subject to the following limitations:

1. Structural alterations, enlargement or re-erection are permissible only where such alterations will not increase the degree of nonconformity of the signs
2. Any legal nonconforming *sign* shall be removed or rebuilt without increasing the existing height or area if it is damaged, or removed if allowed to deteriorate to the extent that the cost of repair or restoration exceeds 50 percent of the replacement cost of the sign as determined by the code official
3. Signs that comply with either Item 1 or 2 need not be permitted

## SECTION 1605 EXEMPT SIGNS

**1605.01 EXEMPT SIGNS.** The following signs shall be exempt from the provisions of this chapter. Signs shall not be exempt from Section 1604.4.

1. Official notices authorized by a *court*, public body, or public safety official
2. Directional, warning or information signs authorized by federal, state, or municipal governments
3. Memorial plaques, building identification signs and building cornerstones where cut or carved into a masonry surface or where made of noncombustible material and made an integral part of the building or structure
4. The flag of a government or noncommercial institution, such as a school
5. Religious symbols and seasonal decorations within the appropriate public holiday season
6. Works of fine art displayed in conjunction with a commercial enterprise where the enterprise does not receive direct commercial gain
7. Street address signs and combination nameplate and street address signs that

contain no advertising copy and that do not exceed 6 square feet (0.56 m2) in area

## SECTION 1606 PROHIBITED SIGNS

**1606.01 PROHIBITED SIGNS.** The following devices and locations shall be specifically prohibited:

1. Signs located in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal, or device, or obstruct or interfere with a driver's view of approaching, merging, or intersecting traffic.
2. Except as provided for elsewhere in this code, signs encroaching on or overhanging public right-of-way. *Signs* shall not be attached to any utility pole, light standard, street tree or any other public facility located within the public right-of-way.
3. Signs that blink, flash or are animated by lighting in any fashion that would cause such signs to have the appearance of traffic safety signs and lights, or municipal vehicle warnings from a distance.
4. Portable signs except as allowed for temporary signs.
5. Any *sign* attached to, or placed on, a vehicle or trailer parked on public or private property, except for signs meeting the following conditions:
  - a) The primary purpose of such a vehicle or trailer is not the display of signs
  - b) The signs are magnetic, decals or painted on an integral part of the vehicle or equipment as originally designed by the manufacturer, and do not break the silhouette of the vehicle
  - c) The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets where applicable, and actively used or available for use in the daily function of the business to which such signs relate
6. Vehicles and trailers are not used primarily as static displays, advertising a product or service, nor utilized as storage, shelter or distribution points for commercial products or services for the public.
7. Balloons, streamers, or pinwheels except those temporarily displayed as part of a special sale, promotion, or community event. For the purposes of this subsection, "temporarily" means not more than 20 days in any calendar year.

## SECTION 1607 PERMITS

**1607.01 PERMITS REQUIRED.** Unless specifically exempted, a permit must be obtained from the code official for the erection and maintenance of all signs erected or maintained within this jurisdiction and in accordance with other ordinances of this jurisdiction. Exemptions from the necessity of securing a permit, however, shall not be construed to relieve the owner of the sign involved from responsibility for its erection and maintenance in a safe manner and in a manner in accordance with all the other provisions of this ordinance.

**1607.02 CONSTRUCTION DOCUMENTS.** Before any permit is granted for the erection of a sign or sign structure requiring such permit, construction documents shall be filed with the code official showing the dimensions, materials and required details of construction, including loads, stresses, anchorage, and any other pertinent data. The permit application shall be accompanied by the written consent of the owner or lessee of the premises on which the sign is to be erected, consent of the Road Authority having jurisdiction, and by engineering calculations signed and sealed by a registered design professional where required by the *International Building Code*.

**1607.03 CHANGES TO SIGNS.** Signs shall not be structurally altered, enlarged, or relocated except in conformity to the provisions herein, nor until a proper permit, if required, has been secured. The changing or maintenance of movable parts or components of an approved sign that is designed for such changes, or the changing of copy, business names, lettering, sign faces, colors, display, and/or graphic matter, or the content of any sign shall not be deemed a structural alteration.

**1607.4 PERMIT FEES.** Permit fees to erect, alter or relocate a sign shall be in accordance with the fee schedule adopted within this jurisdiction. Additional approval will be required from the County Highway Engineer and/or District Road Commissioner.

## SECTION 1608 SPECIFIC SIGN REQUIREMENTS

**1608.01 IDENTIFICATION SIGNS.** Identification signs shall be in accordance with Sections 1608.1.1 through 1608.1.3.

**1608.01.1 WALL SIGNS.** Every single-family residence, multiple-family residential complex, commercial or *industrial* building, and every separate nonresidential building in a residential zone may display wall signs per street frontage subject to the limiting standards set forth in Table 1608.1.1(1). For shopping centers, planned *industrial* parks or other multiple-occupancy nonresidential buildings, the building face or wall shall be calculated separately for each separate occupancy, but in no event will the allowed area for any separate occupancy be less than **(160)** square feet.

**1608.01.2 FREE-STANDING SIGNS.** In addition to any allowable wall signs, every single-family residential subdivision, multiple-family residential complex, commercial or *industrial* building, and every separate nonresidential building in a residential zone shall be permitted to display free-standing or combination signs per street frontage subject to the limiting standards set forth in Table 1608.1.2.

**TABLE 1608.1.1(1)  
IDENTIFICATION SIGN STANDARDS—  
WALL SIGNS**

| LAND USE                              | AGGREGATE AREA<br>(SQUARE FEET) |
|---------------------------------------|---------------------------------|
| Single Family                         | 32                              |
| Multiple Family                       | 32                              |
| Non-Residential in a residential zone | Special Use Permit Required.    |
| Commercial and Industrial             | See Table 1608.1.1(2)           |

**TABLE 1608.1.1(2)  
SIGN AREA**

| DISTANCE OF SIGN FROM ROAD OR ADJACENT COMMERCIAL OR INDUSTRIAL ZONE | PERCENTAGE OF BUILDING ELEVATION PERMITTED FOR SIGN AREA |
|----------------------------------------------------------------------|----------------------------------------------------------|
| 0 to 100 feet                                                        | 2x the Lineal feet of frontage or 160 sq ft.             |
| 101 to 300 feet                                                      | 2x the Lineal feet of frontage or 230 sq ft.             |
| Over 301 feet                                                        | 2x the Lineal feet of frontage or 160 sq ft.             |

1608.01.3 DIRECTIONAL SIGNS. Not more than two directional signs shall be permitted per street entrance to any lot. There shall be no limit to the number of directional signs providing directional information interior to a lot. In residential zones, the maximum area for directional signs shall be **(6)** square feet. For all other zones, the maximum area for any directional sign visible from adjacent property or rights-of-way shall be **(10)** square feet. Not more than 25 percent of the area of any directional sign shall be permitted to be devoted to business identification or logo, which area shall not be assessed as identification sign area.

1608.02 TEMPORARY SIGNS. Temporary signs shall be in accordance with Sections 1608.2.1 through 1608.2.6.

1608.02.1 REAL ESTATE SIGNS. Real estate signs shall be permitted in all zoning districts, subject to the following limitations:

1. Real estate signs located on a single residential lot shall be limited to one sign, not greater than **(8)** feet in height and **(6)** square feet in area
2. Real estate signs advertising the sale of lots located within a subdivision shall be limited to one sign per entrance to the subdivision, and each *sign* shall be not greater than **(6)** square feet in area nor **(8)** feet in height. Signs permitted under this section shall be removed within 10 days after sale of the last original lot
3. Real estate signs advertising the sale or lease of space within commercial or *industrial* buildings shall be not greater than **(32)** square feet in area nor **(10)** feet in height, and shall be limited to one sign per street front
4. Real estate signs advertising the sale or lease of vacant commercial or *industrial* land shall be limited to one sign per street front, and each sign shall be not greater than **(10)** feet in height, and **(32)** square feet for property of 10 acres or less, or **(100)** square feet for property exceeding 10 acres
5. Real estate signs shall be removed not later than 10 days after execution of a lease agreement in the event of a lease, or the closing of the sale in the event of a purchase

1608.02.2 DEVELOPMENT AND

CONSTRUCTION SIGNS. Signs temporarily erected during construction to inform the public of the developer, contractors, architects, engineers, the nature of the project or anticipated completion dates,

shall be permitted in all zoning districts, subject to the following limitations:

1. Such signs on a single residential lot shall be limited to one sign, not greater than **(10)** feet in height and **(32)** square feet in area
2. Such signs for a residential subdivision or multiple residential lots shall be limited to one sign, at each entrance to the subdivision or on one of the lots to be built on, and shall be not greater than **(10)** feet in height and **(50)** square feet in area
3. Such signs for nonresidential uses in residential districts shall be limited to one sign, and shall be not greater than **(10)** feet in height and **(50)** square feet in area
4. Such signs for commercial or *industrial* projects shall be limited to one sign per street front, not to exceed **(10)** feet in height and **(75)** square feet for projects on parcels 5 acres or less in size, and not to exceed **(10)** feet in height and **(100)** square feet for projects on parcels larger than 5 acres
5. Development and construction signs shall not be displayed until after the issuance of construction permits by the building official, and must be removed not later than 7 days following issuance of an occupancy permit for any or all portions of the project

1608.2.3 SPECIAL PROMOTION, EVENT, AND

GRAND OPENING SIGNS. Signs temporarily displayed to advertise special promotions, events and grand openings shall be permitted for nonresidential uses in a residential district, and for all commercial and *industrial* districts subject to the following limitations:

1. Such signs shall be limited to one sign per street front
2. Such signs shall be displayed for not more than 30 consecutive days in any 3-month period, and not more than 60 days in any calendar year. The signs shall be erected not more than 5 days prior to the event or grand opening, and shall be removed not more than 1 day after the event or grand opening
3. The total area of all such signs shall not exceed **(32)** square feet in any single-family residential district, **(50)** square feet in any multiple family residential district and **(75)** square feet in any commercial or *industrial* district

1608.2.4 SPECIAL EVENT SIGNS IN PUBLIC

WAYS. Signs advertising a special community event shall not be prohibited in or over public rights-of-way, subject to approval by the code official, County

Highway Engineer, and/or District Road Commissioner as to the size, location, and method of erection. The code official may not approve any special event signage that would impair the safety and convenience of use of public rights-of-way, or obstruct traffic visibility.

1608.02.5 PORTABLE SIGNS. Portable signs shall be permitted only in the RR, B1 and B2 districts, as designated in this code, subject to the following limitations:

1. Not more than one such sign shall be displayed on any property, and shall not exceed a height of **(10)** feet nor an area of **(10)** square feet
2. Such signs shall be displayed not more than 20 days in any calendar year
3. Any electrical portable signs shall comply with NFPA 70, as adopted in this jurisdiction
4. Portable signs shall not be displayed prior to obtaining a sign permit

1608.2.6 POLITICAL SIGNS. Political signs shall be permitted in all zoning districts, subject to the following limitations:

1. Such signs shall not exceed a height of **(10)** feet nor an area of **(32)** square feet.
2. Such signs for election candidates or ballot propositions shall be displayed only for a period of 60 days preceding the election and shall be removed within 10 days after the election, provided that signs promoting successful candidates or ballot propositions in a primary election may remain displayed until not more than 10 days after the general election.
3. Such signs shall not be placed in any public right-of-way or obstruct traffic visibility.

1608.2.7 ROADSIDE MEMORIALS. Roadside memorial signs and markers will be subject to the Menard County Highway permitting and policies.

1608.03 REQUIREMENTS FOR SPECIFIC SIGN TYPES. Signs of specific type shall be in accordance with Sections 1608.3.1 through 1608.3.7.

1608.03.1 CANOPY AND MARQUEE SIGNS.

1. The permanently-affixed copy area of *canopy* or marquee signs shall not exceed an area equal to 25 percent of the face area of the *canopy*, marquee, or architectural projection on which such sign is affixed or applied

2. Graphic striping, patterns, or color bands on the face of a building, *canopy*, marquee, or architectural projection shall not be included in the computation of sign copy area

1608.03.2 AWNING SIGNS.

1. The copy area of awning signs shall not exceed an area equal to 25 percent of the background area of the awning or awning surface to which such a sign is affixed or applied, or the permitted area for wall or fascia signs, whichever is less.
2. Neither the background color of an awning, nor any graphic treatment or embellishment thereto such as striping, patterns or valances, shall be included in the computation of sign copy area.

1608.03.3 PROJECTING SIGNS.

1. Projecting signs shall be permitted in lieu of freestanding signage on any street frontage limited to one sign per occupancy along any street frontage with public entrance to such an occupancy, and shall be limited in height and area to **30** feet in height and **100** square feet per each **10** lineal feet of building frontage, except that no such sign shall exceed an area of **230** square feet.
2. Such *sign* shall not extend vertically above the highest point of the building facade on which it is mounted by more than **(10%)** percent of the height of the building facade.
3. Such signs shall not extend over a public sidewalk. The projecting sign or portion thereof shall not exceed more than **(8)** feet from the structure to which it is attached or be nearer the curb line than **(2)** feet, whichever is less.
4. Such signs shall maintain a clear vertical distance above any public sidewalk of not less than **(10)** feet.

1608.03.4 UNDER CANOPY SIGNS.

1. Under *canopy* signs shall be limited to not more than one such sign per public entrance to any occupancy, and shall be limited to an area not to exceed **(10)** square feet, or thirty **(25)** percent of the exterior surface area of the canopy.
2. Such signs shall maintain a clear vertical distance above any sidewalk or pedestrian way of not less than **(7)** feet.

1608.03.5 ROOF SIGNS.

1. Roof signs shall be permitted in commercial and *industrial* districts only.

2. Such signs shall be limited to a height above the roofline of the elevation parallel to the sign face of not more than **(1%)** percent of the height of the roofline in commercial districts, and **(1%)** percent of the height of the roofline in *industrial* districts.
3. The sign area for roof signs shall be assessed against the aggregate permitted area for wall signs on the elevation of the building most closely parallel to the face of the sign.

1608.03.6 WINDOW SIGNS. Window signs shall be permitted for any nonresidential use in a residential district, and for all commercial and *industrial* districts, subject to the following limitations:

1. The aggregate area of all such signs shall not exceed 25 percent of the window area on which such signs are displayed. Window panels separated by muntin's or mullions shall be one continuous window area.
2. Window signs shall not be assessed against the sign area permitted for other sign types.

1608.03.7 MENU BOARDS. Menu board signs shall not be permitted to exceed 50 square feet (4.6 m2).

## **SECTION 1609 SIGNS FOR DEVELOPMENT COMPLEXES**

### 1609.01 MASTER SIGN PLAN REQUIRED.

Landlord or single owner controlled multiple-occupancy development complexes on parcels exceeding 8 acres (32 376 m2) in size, such as shopping centers or planned *industrial* parks, shall submit to the code official a master sign plan prior to issuance of new sign permits. The master sign plan shall establish standards and criteria for all signs in the complex that require permits, and shall address, at a minimum, the following:

1. Proposed sign locations.
2. Materials.
3. Type of illumination.
4. Design of free-standing sign structures.
5. Size.
6. Quantity.
7. Uniform standards for nonbusiness signage, including directional and informational signs.

1609.02 DEVELOPMENT COMPLEX SIGN. In addition to the freestanding business identification signs otherwise allowed by this ordinance, every multiple-occupancy development complex shall be entitled to one free-standing sign per street front, at the maximum size permitted for business

identification free-standing signs, to identify the development complex. Business identification shall not be permitted on a development complex sign. Any free-standing sign otherwise permitted under this ordinance may identify the name of the development complex.

### 1609.03 COMPLIANCE WITH MASTER SIGN

PLAN. Applications for sign permits for signage within a multiple-occupancy development complex shall comply with the master sign plan.

1609.04 AMENDMENTS. Any amendments to a master sign plan must be signed and approved by the owner(s) within the development complex before such amendment will become effective.

## **SECTION 1610 INDIVIDUAL DISTRICT SIGN REGULATION**

1610.1 Agricultural District Permitted Signs. Crop identification signs up to six feet square.

1. Temporary signs connected with roadside stands from which products grown on the lot, parcel, or farm upon which the roadside stand is located are sold, provided that such signs are removed November 30 of each year and not reinstalled before May 1 of the following year.
2. Advertising Signs: Advertising signs and outdoor billboards, which advertise products or services not related to the occupancy and use of the premises (off premises advertising signs) require a special use permit.
  - a. Area. No individual sign shall exceed the following maximum area requirements for signs readable and intended to be viewed from the following types of highways and streets:
    - (i) Federal Aid Primary Highways: 378 Square Feet

- (ii) Federal Aid Secondary and all County and Road District streets, highways, and roads: 200 square feet
- b. Whenever the applicant for a permit does not own the proposed site, a fully executed site lease or other proof of consent to erect and maintain a sign on the site must accompany the permit application
- c. Spacing: No billboard advertising sign shall be closer than six hundred (600) feet to another billboard type on the same street. Twin or back-to-back or V-type sign structures shall be considered one sign for purposes of this section
- d. Setback: All portions of advertising signs, including their pedestals, shall be set back from the street right-of-way a distance of ten (10) feet or one foot per twenty (20) square feet of sign area, whichever is greater
- e. Advertising signs shall be shielded whenever necessary to avoid casting bright light on any residential use or residential district
- f. No advertising sign (billboard) shall be located within 600 feet of any residential district

1610.2 Additional Signs. See exemptions in the general provisions above.

1610.3 Residential Districts. See exemptions in the general provisions above.

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

#### 1610.4 Business Districts.

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

street shall be considered as separate frontage, and the gross surface area of all signs shall not exceed two times the lineal feet of frontage or one hundred and sixty (160) square feet, whichever is less.

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

#### 1610.5 B-2 Highway Business District:

- 1. When a sign is illuminated, direct rays of light shall not beam upon any part of any existing residential building, nor into a residential district, nor into a street right-of-way.
- 2. The gross surface area in square feet of all signs on a lot shall not exceed two times the lineal feet of frontage of the building or two hundred and thirty (230) square feet, whichever is less. Each side of a building which abuts upon a street shall be considered as separate frontage, and the gross surface areas of all signs shall not exceed two times the lineal feet of frontage or two hundred and thirty (230) square feet, whichever is less.

- 3. One ground mounted sign shall be permitted for each zoning lot. Such signs shall be limited to only one of the following: an individual business sign, a tenant directory, an advertising sign, or multiple use facility sign. Such signs shall not exceed thirty (30) feet in height and may not exceed the total gross surface area of one hundred (100) square feet. The front yard setback shall be a minimum of ten (10) feet.
- 4. Service Stations: One additional pole sign per street frontage not to exceed twenty feet in height nor eight feet in area, for the purpose of posting fuel prices. The front yard setback shall be a minimum of ten (10) feet.

1610.6 Manufacturing District: Same as B-2 Highway Business District above.

1610.7 Public Lands: Same as B-2 Highway Business District above.

1610.8 Bulk Regulations: Setback requirements, maximum height regulations, and gross surface area restrictions are to be considered bulk regulations and subject to the variance provisions in §12.01 of this Ordinance.

## NON-CONFORMING / NON-CONFORMITIES

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### User note:

***About this chapter:** The requirements imposed by this ordinance 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 impede appropriate development. For example, non-conformities are frequently responsible for truck traffic on residential streets, the overtaking 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 non-conformities.*

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### SECTION 1701 INTENT

**1701.01 NON-CONFORMITIES.** If lawful lots, structures or uses are made unlawful by the adoption or amendment of this code they shall become non-conformities. It is the intent of this Code to permit non-conformities to continue until they are removed but not to encourage their survival. It is further the intent of this code that non-conformities shall not be enlarged upon, expanded, or extended, nor be uses as grounds for creating other unlawful lots, structures or uses except as permitted in this Article of the Zoning Code. There are three categories of nonconformity:

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

### SECTION 1702 NON-CONFORMING LOTS

**1702.01 NON-CONFORMING LOTS.** In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this ordinance, a single-family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. Such lot must be in separate ownership and not continuous frontage with other lots in the same width, or both, that are generally applicable in the district if yard dimensions and other requirements not involving area or width, or both, of the lots shall conform to the regulations for the district in which such lot is located unless otherwise provided herein.

**1702.02 UNDIVIDED TRACT.** If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record on the effective date of this ordinance, and if all or part of the lots do not meet the requirements for lot area, width, and/or depth as established by this ordinance, the lots involved shall be considered to be an undivided tract of land for the purpose of this ordinance, and no portion of said undivided tract of land, shall be used by the present owner, or any future owner, for the erection of a structure which does not meet the lot area, width, and/or depth requirements established by this ordinance.

**1702.03 ELIGIBILITY.** Anything contained herein notwithstanding, a lot of record on the effective date of this ordinance which is classified non-conforming because said lot fails to meet the requirements for area, width, and/or depth of the district in which said lot is located, shall not be eligible for the location of a dwelling for reasons of protecting the public health unless said lot contains a minimum area as follows:

1. A lot without a public water supply system and without a public sanitary sewer system shall conform to the standards of the Menard County Private Sewage Disposal Ordinance and Menard County Health Department review.
2. A lot served by either a public water supply system or a public sanitary sewer system shall conform to the standards exercised by the jurisdiction in which it lies.

**1702.04 YARD REGULATIONS.** Yard Regulations and Standards for Single non-conforming lots of record:

1. Front Yard.
  - a. The minimum front yard dimension shall be determined according to the setback line provided for in Section 302 of this Ordinance.

2. Rear Yard. The rear yard regulations and standards of the district in which such lot is located shall apply.
3. Side Yard.
  - a. On such lot with a width of fifty (50) feet or more, two (2) side yards shall be provided as required by the regulations and standards of the district in which such lot is located.
  - b. On such lot less than fifty (50) feet but not less than twenty-seven (27) feet in width, two (2) side yards shall be provided each equaling ten percent (10%) of the lot width.
  - c. On such lot less than twenty-seven (27) feet but not less than twenty (20) feet in width, the structure located on such lot shall have a width of not more than ninety percent (90%) of such lot width. Only one (1) side yard need be provided, equaling in width the difference between the lot width and the maximum permitted width of the structure. No other side yard need be provided. The wall of any building facing the side of the lot on which no side yard is required shall be without openings and shall not be constructed on a common wall.

#### 1702.05 DEVELOPMENT OF NON-

CONFORMING LOT. A lot which met the lot area, lot width, and other dimension requirements of the zoning district at the time such lot was recorded shall be considered a legal non-conforming lot. Construction of new buildings, or repair of existing buildings that are being used for permitted uses, shall be permitted provided setback provisions of this ordinance are met. Where setback and/or lot area provisions cannot be met, the Zoning Administrator may permit an exception. If the lot is served by a sanitary sewer line, exceptions may be granted up to the standards of the zoning district at the time such lot was recorded. If the lot is non-sewered, an exception of up to 25% of the required setback or lot size may be granted if requirements of the County Health Department are met. Where a setback reduction of more than 25% is required, a variance shall be required.

#### 1702.06 CONVERTED FARM RESIDENCE.

Converted farm residences may be split from existing non-conforming farm properties in the A-Agriculture District, provided that all bulk regulations applicable to converted farm residences are met and the remaining farm parcel is not less than one acre. The

remaining non-conforming farm parcel, having been established after the adoption of this code on January 1, 1999 shall not be permitted to be used for residential purposes.

## **SECTION 1703 NON-CONFORMING USES**

1703.01 NON-CONFORMING USES. Where a lawful use exists at the effective date of adoption or amendment of this Code which would not be permitted by the regulations imposed, the use may be continued so long as it remains otherwise lawful, provided:

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land or greater portion of any building than was occupied at the effective date of adoption or amendment of this code.
2. No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this code.
3. If any such non-conforming use of land alone ceases for any reason for a period of more than thirty (30) consecutive days, any subsequent use of such land shall conform to the regulations specified by this code for the district in which such land is located. This thirty (30) day time limitation shall be considered a bulk regulation and therefore subject to the variance process described in 18.03 VARIATIONS in this ordinance.
4. When a non-conforming use of a structure, or structure and land in combination, ceases for eighteen (18) consecutive months or for eighteen (18) months during any three (3) year period the structure, or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located. No intention to abandon shall be required. This eighteen (18) month time limitation shall be considered a bulk regulation and therefore subject to the variance process described in 18.03 VARIATIONS in this ordinance.

5. Any conforming structure containing a non-conforming use, may be maintained, and repaired.
6. If any principal use of a lot in the A-Agricultural District or RR Rural Residential District is non-conforming as to lot area, width or configuration that use (including authorized accessory uses) may be repaired, replaced in the event of casualty loss, expanded, and enlarged even if the extent of non-conformity in lot area is increased and provided the non-conformity is not increased in any other way.

**1703.02 REPAIRS AND ALTERATIONS TO BUILDINGS CONTAINING NONCONFORMING USES.** So long as a building or structure is used or is eligible for use, normal maintenance of a building or other structure containing a non-conforming use is permitted, including necessary non-structural repairs, replacement of roof covering, veneering of outer walls, and incidental alterations which do not extend or intensify the non-conforming use.

No structural alteration shall be made in a building or other structure containing a non-conforming use, except in the following situations:

1. When the alteration is required by law.
  2. When the alteration will result in eliminating the non-conforming use.
  3. When a building containing residential non-conforming uses is altered in any way to improve livability, provided no structural alteration shall be made which would increase the number of dwelling units or the bulk of the building.
2. Any non-conforming structure may be maintained and repaired to an extent not exceeding fifty (50) percent of the fair cash market value of the structure before repair. Should a non-conforming structure deteriorate or be damaged or destroyed to an extent of more than fifty (50) percent of its prior fair cash market value it shall not be reconstructed except in conformity with the provisions of this Code. This provision shall not apply to Residential buildings in the A-Agricultural, RR Rural Residential or R-1 Single Family Residential districts or B-1 Downtown Business.
  3. Should such non-conforming structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
  4. Any non-conforming use may be extended throughout any parts of the building or structure which were manifestly arranged or designed for such use at the effective date of adoption, or amendment, of this ordinance, but no such use shall be extended to occupy land outside of such structure.
  5. If no structural alterations are made, any non-conforming use of a structure, or of any premises, may be changed to another non-conforming use provided that the ZBA, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change the ZBA may require appropriate conditions and safeguards in accord with the provisions of this ordinance.
  6. Any structure, or any premises, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulation and standards of the district in which such structure or premises is located, and the non-conforming use shall not be resumed.
  7. When a non-conforming use of a building or structure or of a premises, is discontinued or abandoned for six (6) consecutive months or for eighteen (18) months during any three (3) year period, the structure, or the premises, shall not thereafter be used except

## **SECTION 1704 NON-CONFORMING STRUCTURES**

### **1704.01 NON-CONFORMING STRUCTURES.**

Where a lawful structure exists at the effective date of adoption or amendment of this code which could not be built under the terms of this code by reasons of bulk restrictions, restrictions on lot coverage, height, yards, location on lot or other zoning requirements concerning the lot or structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. A non-conforming structure may not be enlarged or altered in a way which increases its non-conformity, but may be enlarged or altered in a way that is conforming.

in conformance with the regulations and standards of the district in which it is located.

8. Where non-conforming use status applies to a premises, removal or destruction of the structure shall eliminate the non-conforming use status of the land, except as it may qualify as a non-conforming lot of record.
9. No repairs or reconstruction shall be made unless construction is commenced within one year from the date of the fire or other casualty or act of God, and is diligently pursued until completion. The structure may be restored to its original condition and the occupancy or use of such structure may be continued which existed at the time of such partial destruction. Failure to initiate or conclude restoration within these limits shall constitute abandonment, after which said building must conform to the provisions of the zoning district in which it is located.

## **SECTION 1705 NON-CONFORMING SIGNS**

1705.01 NON-CONFORMING SIGNS. Where, on the effective date of adoption or amendment of this ordinance, a lawful sign exists that could not be located under the regulations and standards of this ordinance as adopted, or amended, by reasons of restrictions on location, sign area, height, or other characteristics, such sign may be continued so long as it remains otherwise lawful subject, however, to the following limitations and provisions:

1. No such sign may be enlarged or altered which increases its non-conformity but the substitution or interchange of poster panels or painted boards shall be permitted.
2. Should such sign be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.
3. Should such sign be moved for any reason for any distance whatsoever it shall thereafter conform to the regulations and standards for the district in which it is located after it is moved.

## TEMPORARY AND SPECIAL USE REGULATIONS, VARIANCE, AND AMENDMENTS

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### User note:

**About this chapter:** The Menard County Zoning Ordinance regulates the type of uses that are allowed to take place on your property. A temporary use is established for a fixed period of time with the intent to discontinue the use at the end of that time. These uses require a Temporary Use Permit.

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### SECTION 1801 TEMPORARY USES BY PERMIT

**1801.01 AUTHORIZATION TEMPORARY USES BY PERMIT.** Temporary uses are allowed in accordance with all other applicable provisions of this chapter.

**1801.02 PERMIT REQUIREMENT.** No temporary use shall be established unless a temporary use permit evidencing the compliance of the use with the provisions of this section and other applicable provisions of this chapter has been issued by the Menard County Zoning Administrator. The Zoning Administrator shall be authorized to impose conditions on the application in accordance with Section 104.

**1801.03 APPLICATIONS.** Applications for temporary use permits shall be submitted to the Menard County Zoning Office on forms available in the zoning office and shall be submitted at least 30 days before the date of the event or start of the temporary use, unless this timeframe is reduced by the Zoning Administrator. Each application shall be accompanied by:

(1) A site plan, drawn to scale, showing the location of structures, improvements, parking areas and other features that exist or are proposed on the site; and

(2) Signed, written permission from the owner of or the agency having jurisdiction over the subject property

**1801.04 GENERAL STANDARDS.** The following standards shall apply to all temporary uses unless otherwise expressly stated.

(1) Access approval from the highway authority with jurisdiction over the subject road shall be required

(2) No permanent or temporary electrical connection shall be installed without an electrical

permit and inspection subject to the Zoning Administrators approval.

(3) A building permit and inspection shall be obtained prior to the construction of any temporary structures

(4) Temporary structures shall be located at least four feet from any buildings or structures on the subject property

(5) The Menard County Zoning Administrator shall be authorized to require evidence of approval from the Menard County Health Department regarding temporary sanitation facilities

(6) No signs in connection with a temporary use shall be permitted except in accordance with the provisions of Section 1608.2. All temporary signage shall be removed immediately upon cessation of the temporary use

(7) Temporary uses or structures shall not encroach into any required landscaping

(8) Parking areas shall be provided for the temporary use (in addition to required parking for any principal use existing or proposed on the site), and the areas shall be capable of accommodating the number of parking spaces that are required for the most similar use type under Sections 306 and 307

(9) Requests for modifications or waivers from any of the time limits of this section shall require review and approval from the Zoning Board of Appeals in accordance with the delegated special use permit procedures of Section 1802

(10) The Menard County Zoning Administrator shall have the authority to suspend, revoke, or modify a temporary use permit immediately upon determination that the conditions and requirements set forth in the permit have been violated. Written notice of the Menard County Zoning Administrator's determination to suspend, revoke, or modify the permit shall be promptly provided to the applicant. A determination under this subsection shall be final and conclusive unless the applicant takes an appeal to the Zoning Board of Appeals within ten calendar days after receipt of notice of the Menard County Zoning Administrator's determination

(11) The Menard County Zoning Administrator shall have the authority to deny temporary use permits to any person who owns, applied for, or otherwise caused an uncorrected violation of a provision of this chapter or who has demonstrated a willful history of violations, including any condition attached to a permit or approval previously granted by the county. This provision shall apply regardless of whether the property for which the permit or other approval is sought is the property in violation

(12) The Menard County Zoning Administrator shall have the authority to deny temporary use permits on any land or structure or improvements thereon, upon which there is an uncorrected violation of a provision of this chapter, including any condition attached to a permit or approval previously granted by the county. This enforcement provision shall apply regardless of whether the current owner or applicant is responsible for the violation in question

(13) The main road from which access is taken shall always be kept free of dust, dirt, mud, and other debris

(14) Any food service operation that sells, prepares or serves potentially hazardous food must obtain an approved food service permit from the Menard County Health Department and is subject to inspection

1801.05 ANIMAL SHOWS. Animal shows shall be allowed for special events for agricultural and wildlife education purposes, including but not limited to shows, exhibitions, and contests. The maximum length of such a permit shall be ten days, with no more than three permits for a total of no more than 20 days issued per zoning lot in any calendar year

*Private, non-public events on the sponsor's property such as private educational activities are not considered animal shows.*

1801.06 RODEOS. Rodeos shall be allowed when accessory to an approved agricultural exempt use and limited to specified hours and a maximum of seven days per calendar year per zoning lot.

1. Rodeos shall be limited to the dates and hours of operation specified in the permit.
2. The minimum setbacks for the Agricultural (AG) Zoning District shall apply for any structure or activity associated with the rodeo
3. Rodeos shall be permitted only on parcels greater than ten acres in size. A parcel containing a rodeo shall be located at least 500 feet away from any property zoned and used for residential purposes

4. Noise levels associated with rodeos shall not exceed 70 dB(A) (SLOW meter response) at the property line of any property zoned and used for residential purposes
5. If liquor will be sold on the property, a liquor permit shall be obtained from the Menard County Clerk
6. The Menard County Zoning Administrator shall be authorized to require proof of insurance to ensure public safety and protection
  - a) It shall be the responsibility of the applicant to see that the area used for the event is maintained in a condition that provides for the public health, safety, and welfare for event attendees and neighbors alike
  - b) In the event that authorized personnel from the Menard County Sheriff's Office determine that the activity is a threat to the public health, safety, or general welfare, the Menard County Sheriff's Office shall have the right to close the event to ensure the health, safety, or general welfare of attendees or neighbors

1801.07 BATCH PLANT FOR PRIVATE ROAD CONSTRUCTION. Batch plants shall be located a minimum of 1,000 feet from any building used for residential purposes, or at the discretion of the County Highway Engineer.

1. The period for which the permit shall be valid shall be stated on the permit and shall not exceed the duration of the construction contract by more than 14 days
2. All facilities placed or located on the site shall be removed and the site restored to a clean and vegetated condition within the timeframe of the permit

1801.08 CARNIVAL OR CIRCUS. The maximum length of the permit shall be ten days and no more than one permit shall be issued per zoning lot in any calendar year.

1. No structure or equipment shall be located within 200 feet of any (off-site) building used for residential purposes
2. Carnival or circus events may not use live animals in any manner

1801.09 CONTRACTOR'S OFFICE AND CONSTRUCTION EQUIPMENT SHEDS. Contractor's office and construction equipment sheds shall be allowed in any zoning district when accessory to an allowed construction project.

1. Contractor's office and construction equipment sheds must be located on the same site as the construction project unless approved by the Menard County Zoning Administrator
2. No contractor's office or shed shall contain sleeping or cooking accommodations, except as necessary to accommodate security personnel
3. The maximum length of the permit shall be one year. The permit may be renewed throughout the duration of the construction period
4. Any office or shed shall be removed within 14 days of completion of the construction project

#### 1801.10 CONTRACTOR'S MODEL HOMES.

Temporary use permits for one or more contractor's model homes may be issued for any subdivision that has received final plat approval.

1. Temporary use permits for one or more model homes may be issued prior to final plat approval, subject to the following standards:
2. Final engineering plans must be approved by all applicable county reviewing agencies and a site development permit must be issued prior to building permit approval.
3. Model homes shall comply with minimum setback standards of the underlying zoning district. Setbacks from existing property lines and proposed lot lines shall be shown on the required site plan.
4. The maximum number of contractor's model homes that may be established prior to final plat approval shall not exceed 20% of the total number of dwelling units proposed in the development, or five dwelling units, whichever is less.

Temporary occupancy permits for the model homes shall not be issued until:

Final plat approval is obtained; and

1. Roads, appropriate means of sewage disposal, storm sewers, stormwater management, and other required public improvements are substantially completed in that area of the development where the model homes have been constructed.
2. A temporary use permit shall be valid for one year and may be renewed.

1801.11 EVENTS OF PUBLIC INTEREST. Events of public interest, including but not limited to picnics, races for motorized vehicles, Jeep crawls, motorcycle, UTV & ATV and/or motorized vehicle

public Off -Road Courses, water craft or air craft races, fishing derbies, dinner dances, fundraisers, survival games, haunted houses, outdoor concerts, auctions, tent meetings, farm-to-table events, and supervised public display of fireworks shall be subject to the following standards.

*Private, non-commercial events on the sponsor's property such as home owners' associations picnics at the subdivision park, corporate picnics on the corporate campus, private weddings at a private residence or subdivision clubhouse, and the like, are not considered events of public interest.*

Unless otherwise expressly approved, all uses and activities shall be limited to specified hours and a maximum of 15 days per calendar year (per zoning lot).

1. All activities and uses shall be limited to the dates and hours of operation specified in the permit
2. Events of public interest shall be permitted in residential districts only when located on the site of a permitted nonresidential use. Any temporary event of public interest in a residential zoning district must be directly related to an approved nonresidential, institutional, or agricultural use
3. Traffic control shall be arranged by the operators of the event with the Menard County Sheriff's Office
4. Water-based events of public interest shall require 60-day advanced notification to and coordination with all applicable governmental agencies having jurisdiction, the approval of any applicable agency permits, and the payment of any applicable agency fees prior to the issuance of a temporary use permit
5. Public parking for the exclusive use of the facility/event shall be provided and a stabilized drive to the parking area shall be maintained. It is the responsibility of the operators to guide traffic to these areas. No parking shall be permitted on any road or public right-of-way
6. Noise levels associated with events of public interest, except for supervised display of fireworks, shall not exceed 60 dB(A) (SLOW meter response) at the property line of any abutting property zoned and used for residential purposes
7. The site shall be cleared of all debris within 24 hours of the end of the event and cleared of all temporary structures within seven days after closing of the event. A cash bond or

other assurance may be required by the Menard County Zoning Administrator to ensure cleanup. Bond amounts shall be based on the estimated costs of cleanup and site restoration

8. If liquor will be used, sold, or consumed on the property, a liquor permit shall be obtained from the Menard County Clerk
9. The Menard County Zoning Administrator shall be authorized to require proof of insurance to ensure public safety and protection
10. It shall be the responsibility of the applicant to see that the area used for the event is maintained in a condition that provides for the public health, safety, and welfare for event attendees and neighbors alike. In the event that authorized personnel from the Menard County Sheriff's Office determine that the activity is a threat to the public health, safety, and welfare, the Menard County Sheriff's Office shall have the right to close the event to ensure the health, safety, or general welfare of attendees or neighbors
11. In addition to the conditions listed above, a temporary use permit for supervised public displays of fireworks shall only be issued subject to the terms and conditions of the Fireworks Ordinance of the county
12. In addition to the conditions listed above, a temporary food service permit for farm-to-table events must be obtained from the Menard County Health Department prior to issuance of a temporary use permit

1801.12 MATERIAL STOCKPILING AND PROCESSING OF DREDGED MATERIALS. With the exception of governmental entities, temporary material stockpiling and processing shall be subject to the following standards:

1. Permitting and public outreach. The use shall be subject to both site development and temporary use permit processes. Following application submittal, staff will determine whether public information meeting would be required. A staff administered meeting may be held to gather information and feedback, as well as offer an opportunity for the public to learn about the use.
2. Zoning Administrator approval. Approval of the temporary use permit is contingent on the Menard County Zoning Administrator's approval. If a specific proposed site requiring a temporary use permit presents an unreasonable risk to public health, safety or

welfare, the Administrator shall have the authority to deny the request.

3. Maximum length of permit. Temporary use permits shall be limited to a maximum two-year period of time. However, the permit may be renewed in increments of up to two years in the absence of a pattern of credible complaints. In consideration of any such permit renewal, the Director may require a public information meeting to obtain additional input, as appropriate.
4. Access.
  - a) For properties without an approved access location, evidence that an access permit can be obtained, for the proposed use, from the highway authority having jurisdiction. For properties with a previously approved access location, evidence from the highway authority having jurisdiction that the existing access point is sufficient to serve the proposed use; if the existing access is insufficient, evidence that a new access permit can be obtained, for the proposed use, from the highway authority having jurisdiction
  - b) For properties with an access location onto a private road, evidence that permission can be obtained, for the proposed use from:
  - c) Homeowners' association having responsibility for maintenance of the private road, or
    - a. A majority of the property owners fronting the access road in the absence of an active association. Applicants must also show that they have or can obtain access permits from the highway authority which has jurisdiction over the road onto which the private road terminates
    - b. Permission to use property. The application must include a signed, written permission from the owner of, or the agency having jurisdiction over, the subject property or properties
5. Site restoration plan.
  - a) A site restoration plan must be submitted to and approved by the county
  - b) The exact termination date for the completion of operations and the

restoration of the site shall be established in the temporary use permit review process and imposed at the time of approval based upon the estimated length of time the operation will be conducted

6. Operating standards. The applicant shall provide an operating plan. The operating plan shall, at a minimum, contain the following information:
  - a) Number of employees anticipated at the facility
  - b) Proposed hours of operations for receipt of material
  - c) Proposed daily average/maximum volume (in tons) of material to be received at the facility.
  - d) Identification of the maximum number of vehicles (by vehicle type) proposed to utilize the facility on a daily basis
  - e) Description of any equipment proposed to be utilized to prepare the material for stockpiling or shipment and the location and design of any noise-buffering elements, sheltering and operating controls to minimize noise impacts
  - f) Description of operating methods employed to control odor, accidental combustion of material, disease vectors, dust, and litter
  - g) Description of the method and equipment utilized to load recyclable and non-recyclable general construction or demolition for shipment from the facility
  - h) Specification of typical and maximum anticipated height of stockpiled dredging material and debris  
Identification of the buffering and/or screening measures employed to minimize the visual impact of the proposed stockpiles from surrounding land uses
7. Other conditions. The temporary use permit may establish, as necessary, reasonable conditions that regulate activity on the site including but not limited to:
  - a. Hours and days of operation
  - b. Vehicle trips generated per day
  - c. Noise and dust emissions
8. Public safety training structure. The Menard County Zoning Administrator shall be authorized to approve the use of temporary structures for public safety training conducted by or on behalf of a governmental public safety entity to conduct training to

fulfill the statutory purpose of that entity. The temporary structure permit shall not exceed a period of more than one year.

1801.13 REAL ESTATE SALES OFFICE. Real estate sales offices shall be allowed in any zoning district for any new development approved in accordance with this chapter. Unless otherwise expressly approved by the Menard County Zoning Administrator, the real estate sales office shall be located on the site of a new development. The office shall not be used as a residence, provided that a model home may be used as a temporary sales office.

1. The maximum length of the permit shall be one year. The permit may be renewed throughout the sales period of the development
2. Applications to establish temporary real estate sales offices prior to final plat approval shall be accompanied by a signed affidavit from the builder and property owner acknowledging that the builder/owners will remove any structures, including model homes, if the preliminary plat lapses prior to approval of the final plat. The affidavit shall be in a form specified by the Menard County Zoning Administrator

1801.14 TEMPORARY SALES. The standards of this subsection shall apply to farm produce sales, retail nursery sales associated with wholesale nurseries, Christmas tree sales, garage sales, farmers' markets, and food sales.

1801.15 FARM PRODUCE SALES (SEASONAL). Seasonal sales of farm produce and value-added agricultural products may be allowed by temporary use permit in all zoning districts for a period not to exceed eight months per calendar year. In residential zoning districts, seasonal sale of farm produce and value-added agricultural products shall only be allowed on parcels having a minimum area of 80,000 square feet and a minimum road frontage of 190 feet and further provided that the majority of the produce and primary ingredients of products are grown on-site.

- a) Temporary sales shall be allowed only during daylight hours, with specific hours of operation specified in the temporary use permit
- b) All sales shall be conducted at least 30 feet from all streets and public rights-of-way
- c) A minimum of 30-foot setback shall be maintained from property used or zoned for residential purpose

- d) The property shall be of sufficient size to provide adequate off-street parking in addition to required parking for any existing use on the property
- e) Sales shall be conducted in such a manner so as not to interfere with traffic or cause a nuisance
- f) The access drive to the site shall be located at least 150 feet from the right-of-way of any public road intersection or other major access drive unless there is an existing access within 150 feet of the intersection and the highway authority having jurisdiction grants approval to use the existing access

**1801.16 RETAIL NURSERY STOCK SALES ASSOCIATED WITH WHOLESALE NURSERIES.**

Retail nursery stock sales events associated with wholesale nurseries may be allowed by temporary use permits and shall be limited to 30 days per calendar year.

- a) Retail nursery stock sales shall be allowed only during daylight hours, with specific hours of operation specified in the temporary use permit
- b) All sales shall be conducted at least 30 feet from all streets and public rights-of-way
- c) A minimum of 30-foot setback shall be maintained from property used or zoned for residential purposes
- d) The property shall be of sufficient size to provide adequate off-street parking in addition to required parking for any existing use on the property
- e) All sales on the property shall be limited to stock grown on-site

**1801.17 CHRISTMAS TREE SALES.** Christmas tree sales may be allowed by temporary use permit in all zoning districts for a period not to exceed 45 days per calendar year. Christmas tree sales shall be allowed in residential zoning districts only when located on the site of a permitted nonresidential use. If the principal use of the property is a Christmas tree farm on a property containing a minimum of 200,000 square feet or is a retail greenhouse/nursery or garden center, no temporary use permit shall be required.

- a) All sales shall be conducted at least 30 feet from the right-of-way of any street
- b) A minimum of 30-foot setback shall be maintained from property used or zoned for residential purpose
- c) The property shall be of sufficient size to provide adequate off-street parking in

addition to required parking for any existing use on the property

- d) Sales shall be conducted in such a manner so as not to interfere with traffic or cause a nuisance
- e) The access drive to the site shall be located at least 150 feet from the right-of-way of any public road intersection or other major access drive unless there is an existing access within 150 feet of the intersection and the highway authority having jurisdiction grants approval to use the existing access

**1801.18 GARAGE SALES.** Garage sales shall be allowed in all zoning districts without a permit, provided that no more than two garage sales shall be conducted on a zoning lot in any calendar year.

- a) No garage sale shall be conducted for longer than three consecutive days duration
- b) Sales events may be conducted during daylight hours only
- c) No more than two signs may be used to advertise a permitted garage sale event. The sign shall not exceed four square feet in area and must be located within the boundaries of the zoning lot on which the sale takes place or on other private property, with the consent of the owner

**1801.19 FOOD SALES.** Temporary food stands may be allowed by temporary use permit in the AG, RR, B1 & B2 Zoning Districts for a period not to exceed six months per calendar year.

- a) Temporary food stands shall be allowed only during daylight hours, with specific hours of operation specified in the temporary use permit
- b) All sales shall be conducted at least 30 feet from all public rights-of-way
- c) A minimum 30-foot setback shall be maintained from adjoining property used or zoned for residential purposes
- d) The property shall be of sufficient size to provide adequate off-street parking in addition to required parking for any other use on the subject property
- e) Sales shall be conducted so as not to interfere with traffic or cause a nuisance
- f) The access drive shall be located at least 150 feet from the right-of-way of any public road intersection or other major access drive unless there is an existing access within 150 feet of the intersection and the highway authority having jurisdiction grants approval to use the existing access

1801.20 FARMERS' MARKETS. Farmers' markets, defined as an area for farmers and gardeners to sell agricultural produce and products to the public, may be allowed by temporary use permit in all zoning districts for a maximum of 24 days per calendar year. In residential zoning districts, farmers' markets shall be allowed only when located on parcels with a permitted nonresidential use having a minimum area of 80,000 square feet and a minimum road frontage of 190 feet.

- a) Sales may be conducted from trucks, open booths, or temporary structures. At least 75% of the vendors must sell products obtained from local food production or a cottage food operation
- b) Farmers' markets shall be allowed only during daylight hours, with specific hours of operation specified in the temporary use permit
- c) All sales booths, temporary structures, and trucks being used to sell produce and products must maintain a minimum of 30-foot setback from all property lines, streets, and public rights-of-way
- d) The property shall be of sufficient size to provide adequate off-street parking in addition to required parking for any existing use on the property. There shall be no parking permitted in a right-of-way
- e) Sales shall be conducted in such a manner so as not to interfere with traffic or cause a nuisance
- f) The access drive to the site shall be located at least 150 feet from the right-of-way of any public road intersection or other major access drive unless there is an existing access point within 150 feet of the intersection and the highway authority having jurisdiction grants approval to use the existing access
- g) The operator and/or vendors must operate in compliance with all applicable state and federal laws and obtain all permits and registrations as required by Menard County and State of Illinois Health Departments prior to issuance of a temporary use permit

*Either a "temporary food service permit" or a "seasonal food service permit" must be obtained from the Menard County Health Department prior to issuance of a temporary use permit.*

1801.21 TEMPORARY SHELTER. When fire or natural disaster has rendered a residence unfit for human habitation, the temporary use of a single

mobile home or recreational vehicle located on the parcel during rehabilitation of the original residence or construction of a new residence is permitted subject to the following additional regulations. Required water and sanitary facilities must be provided.

1. The maximum length of a permit shall be six months, but the Menard County Zoning Administrator may extend the permit for a period or periods not to exceed 60 days provided reasonable construction progress has been made and the construction is being diligently pursued. Application for the extension shall be made at least 15 days prior to expiration of the original permit
2. The mobile home or recreational vehicle shall be removed from the property upon issuance of any occupancy permit for the new or rehabilitated residence. The applicant shall be required to provide express consent and authorization to the county to remove the shelter at the owner's expense upon termination of the permit, if the applicant has not done so voluntarily

1801.22 TEMPORARY STRUCTURES FOR FARM HOUSING. Temporary structures for farm housing that are associated with an exempt agricultural use shall be subject to the following standards.

1. A temporary use permit shall be required
2. Menard County Health Department approval shall be required
3. All structures used for temporary farm housing shall be subject to the (principal structure) setback standards of the underlying zoning district
4. There shall be no limit on the number of structures allowed

1801.23 TEMPORARY STRUCTURES FOR CLASSROOMS. The Menard County Zoning Administrator shall be authorized to approve the use of temporary structures for portable classrooms, when the Menard County Zoning Administrator determines that the structures are necessary to accommodate uses and activities of immediate necessity within the county

1801.24 TEMPORARY STRUCTURES DURING CONSTRUCTION. Upon application of a building permit for a nonresidential principal structure, the Menard County Zoning Administrator shall be authorized to issue a temporary use permit for temporary structures to be used on-site during the period of construction.

The temporary structures shall be used only in furtherance of the purpose for which the principal structure is being constructed and may remain on the site only for the life of the building permit or a maximum of two years, whichever is less.

**1801.25 TEMPORARY STRUCTURES FOR SCIENTIFIC RESEARCH AND TESTING.** The Menard County Zoning Administrator shall be authorized to approve the use of temporary structures for scientific research and testing and ancillary to an existing permitted principal manufacturing and production use on the subject property, provided that the structures meet all applicable density and dimensional requirements of this chapter.

## **SECTION 1802 SPECIAL USES BY PERMIT**

**1802.01 SPECIAL USES BY PERMIT.** This Code divides the County into various districts and permits in 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 County Board. State Statute **55 ILCS 5/5-1209.5**

**1802.02 APPLICATION.** Every applicant for special use permit shall submit to the Administrator, in narrative and graphics form on forms provided by the County, the items of information listed below. [Every special use permit application shall also be filed with the Menard County Soil and Water Conservation District as per State law, (**See 70 ILCS Sec. 05/22.02a**) and, if the land in question is within one and one-half (1 ½) miles of a municipality, with the Clerk of that municipality.] The Administrator shall promptly transmit the completed application, and any comments or recommendation he/she might wish to make, to the Board of Appeals. (**NOTE: Filing fee required.**)

**1802.03 ITEMS OF INFORMATION:** The following items will be required of each applicant:

1. Name and address of the applicant
2. Name and address of the owner or operator of the proposed structure or use, if different from (A)

3. Nature of the proposed use, including type of activity, manner of operation, number of occupants or employees, and similar matters
4. Location of the proposed use or structure, and its relationship to existing adjacent uses or structures
5. Area and dimensions of the site for the proposed structure or use
6. Existing topography of the site (USGS 10-foot contour data is acceptable), and proposed finished grade
7. Existing and proposed screening, landscaping, and erosion control features on the site, including the parking area
8. Height and setbacks of the proposed structure
9. Number and size of the proposed dwelling units, if any
10. Documentation of age and pictures to show proof of condition of proposed mobile home
11. Number and location of proposed parking/loading spaces and access ways
12. Identification and location of all existing or proposed utilities, whether public or private
13. Any other pertinent information that the Administrator may require

**1802.04 PUBLIC HEARING NOTICE.** The Menard County Board of Appeals shall hold a public hearing on every special use permit application within a reasonable time 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, as long as the testimony is germane to the application.

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 by certified mail to all parties whose properties are adjacent to the property for which the special use permit is sought
2. By publication in a newspaper of general circulation within the County
3. By county website
4. By physical posting of notice on premises.

#### 1802.05 ADVISORY REPORT, FACTORS

CONSIDERED. Within a reasonable time after the public hearing, the Board of Appeals shall submit its advisory report to the County Board. In deciding what its 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 properties and on the County's overall tax base
3. Whether there are any facilities near the proposed special use (e.g. schools, hospitals, etc.) that require special protection or consideration

The recommendation to the full County Board by the Board of Appeals can be: to Deny, Grant or Grant subject to conditions.

Four (3) members of a five (5) member Board of Appeals shall constitute a quorum; and the affirmative vote of three (3) members shall be necessary to recommend any variation or modification to the County Board per State Statute **55ILCS 5/5-12009.5**.

1802.06 ACTION BY COUNTY BOARD. The County Board shall act on every request for special use permit at its next regularly scheduled meeting following submission of the Board of Appeals' advisory report. The County Board may grant a special use permit by an ordinance passed by a simple majority vote of all members then holding office.

1802.07 LAPSE OF APPROVAL. An approved special use permit will lapse and have no further effect one year after it is approved by the County Board, unless a building permit or site development permit has been issued. The building permit expiration period is also one year.

- A. The County Board is authorized to extend the expiration period for good cause up to two additional occasions, by up to 180 days. Requests for extensions must be submitted to the Zoning Administrator before the special use permit expires
- B. A special use permit also lapses upon revocation of a building permit for violations of conditions of approval or upon expiration of a building permit to carry out

the work authorized by the special use permit

- C. If any special use is abandoned, or is discontinued for a continuous period of one year or more, the special use permit for such use is void, and such use may not be reestablished unless and until a new special use permit is obtained in accordance with the procedures of this section
- D. A Special Use Permit will become void upon sale or transfer of property and a new special use permit is obtained in accordance with the procedures of this section

Successive applications. If a special use permit application is denied, no application may be approved for substantially the same use on substantially the same site for 12 months from the date of denial by the County Board, unless the County Board determines that conditions in the area have substantially changed.

### **SECTION 1803 VARIANCES**

1803.01 VARIANCES. A variance is a relaxation of the requirements of this Code that are applicable to a particular lot or structure.

1803.02 USE VARIANCES. 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 should be granted only as provided for in Section 1803.

1803.03 APPLICATION FOR VARIANCES. Every application for a variance shall submit to the Administrator, in narrative and graphics form on forms provided by the County, the items of information listed below. (Every variance application shall also be filed with the Menard County Soil and Water Conservation District as per State Law (**See 70 ILCS 405/22.02a**) and, if the land in question is located within one and one-half (1 ½) miles of a municipality, with the Clerk of that municipality.) The Administrator shall promptly transmit said application to the Board of Appeals together with any recommendation or comments he/she may wish to make. The application shall contain sufficient information to allow the Board to make an informed decision, and shall include, at a minimum, the following: (**NOTE:** Filing fee required.)

1. Name and address of the applicant
2. Location of the lot, structure or use for which the variance is sought

3. Relationship of said lot, structure or use to adjacent lots, structures or uses
4. Specific section(s) of this Code containing the regulations which, if strictly applied, would cause a serious problem
5. Any other pertinent information that the Administrator may require

1803.04 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 including any school or other taxing district in which the property in question is located may appear and testify, either in person or by duly authorized agent or attorney. All testimony shall be given under oath and directly relates to the application.

Notice of the hearing 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 by certified mail and return receipt to all parties whose properties are adjacent to the property for which the variance is sought
2. By publication in a newspaper of general circulation within the County
3. By county website
4. By physical posting of notice on premises.

1803.05 CONTENTS OF NOTICE. The notice of a public hearing on a variance request shall include the following information:

1. Date, time and place of said hearing
2. Name and address of the applicant
3. The location of the real estate for which the variation is requested by legal description and street address, and, if no street address, then by locating such real estate with reference to any well-known landmark, road, or intersection
4. Whether or not the applicant is acting for himself or in the capacity of agent or representative of a principal, and stating the name and address of the true principal
5. Whether the applicant is a corporation, and if a corporation, the correct names and addresses of all officers and directors, and of all stockholders and shareholders owning any

interest in excess of twenty percent (20%) of all outstanding stock of such corporation

6. Whether the applicant or his principal, if other than the applicant, is a business or entity doing business under an assumed name, and if so, the name and residence of all true owners of such business or entity
7. Whether the applicant is a partnership, joint venture, syndicate, or an unincorporated voluntary association, and, if so, the names and addresses of all partners, joint ventures, syndicate members or members of the unincorporated voluntary association
8. A brief statement describing the proposed variance

1803.06 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 purpose of this Code (See Section 108)
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
3. The proposed variance is the minimum deviation from such requirements that will alleviate the difficulties/hardship, and allow a reasonable return on the property
4. The plight of the applicant is due to circumstances not of his own making
5. The circumstances engendering the variance request are peculiar and not applicable to other property within the district and, therefore, that a variance would be a more appropriate remedy than an amendment (rezoning)
6. The variance, if granted, will authorize reasonably related conditions "effect" caused by the approval of the variation to be appended to variations
7. The variance, if granted, will not alter the essential character of the area where the premises in question are located nor materially frustrate implementation of the County's Comprehensive Plan

1803.07 TERMS OF RELIEF, FINDINGS OF FACT. The Board of Appeals shall render a decision

on every variance request within a reasonable time after the public hearing. The Board shall specify the terms of relief granted (if any) in one statement and its findings of fact in another statement. The findings of fact shall clearly indicate the Board of Appeal's reasons for granting or denying any requested variance.

## **SECTION 1804 AMENDMENTS; REZONINGS AND TEXT**

**1804.01 AMENDMENTS.** The County Board shall amend this Code in accordance with State law (**See 55 ILCS 5/5-12014**) and the provisions of this Section. Proposed alterations of district boundaries or proposed changes in the status of uses (permitted, special, or prohibited) shall be deemed proposed amendments. Amendments may be proposed by the County Board, the Administrator, the Board of Appeals, County Planning Commission, or any party in interest.

**1804.02 FILING FOR AMENDMENTS.** Every proposal to amend this Code shall be submitted to Administrator in narrative and graphics form on forms provided by the County and shall include information as the Administrator considers necessary to allow the County Board to make an informed decision. The person proposing an amendment shall also file a copy of this proposal with the Menard County Soil and Water Conservation District (**See 70 ILCS 405/22.02a**) and, if the land in question is located within one and one-half (1 ½) miles of a municipality, with the Clerk of that municipality. The Administrator shall promptly transmit copies of the proposal, together with any comments or recommendation he/she may wish to make, to the Board of Appeals. (**NOTE:** Filing fee required.)

**1804.03 PUBLIC HEARING, LOCATION.** The Menard County Planning Commission and the Board of Appeals shall hold a public hearing on every amendment proposal within a reasonable time after said proposal has been submitted to them. Said hearing shall be held in the Menard County Courthouse. At the hearing any interested party (including any school or other taxing district in which the property in question is located) may appear and testify, either in person or by duly authorized agent or attorney. All testimony shall be given under oath and directly relates to the application.

**1804.04 NOTICE OF PUBLIC HEARING.** Notice indicating the time, date and place of the public 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 the applicant and to all parties by certified mail with return receipt to whose properties are adjacent to the property that would be rezoned (in the case of rezoning)
2. By publication in a newspaper of general circulation within the County
3. By county website
4. By physical posting of notice on premises.

**1804.05 ADVISORY REPORT FROM BOARDS.** Within a reasonable time after the public hearing, the Planning Commission and Board of Appeals shall submit an advisory report to the County Board. Said advisory report shall include a recommendation regarding adoption of the proposed amendment, and the reasons therefor. If the proposed amendment involves a rezoning, the advisory report shall include findings of fact concerning each of the following matters:

1. Existing use(s) and zoning of the property in question
2. Existing use(s) and zoning of other lots in the vicinity of the property in question
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 based upon the current Menard County Land Evaluation and Site Assessment (LESA) system
5. Suitability of the property in question for the proposed use noting the proximity of livestock operations
6. The trend of development in the vicinity of the property in question, including changes (if any) which may have occurred since that property was initially zoned or last rezoned
7. The effect the proposed rezoning would have on implementation of the County Comprehensive Plan

**1804.06 ACTION BY COUNTY BOARD.** The County Board shall act on every proposed amendment at their next regularly scheduled meeting following submission of the aforementioned advisory reports. The County Board may pass any proposed

amendment by simple majority vote except as indicated below.

1804.07 EXCEPTIONS; UNANIMOUS VOTE REQUIRED. The favorable vote of at least three-fourths (3/4) of all the members of the County Board is required to pass an amendment to this Code in the following instances:

1. In the case of a written protest against a proposed amendment, filed with the County Clerk, and signed or acknowledged 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; or in the case of a written protest against a proposed amendment, when the proposed amendment is of an initiated parcel number change of an original parcel number, filed with the County Clerk, and signed by the owners of twenty percent (20%) of the frontage of the original

parcel proposed to be altered, or by the owners of twenty percent (20%) of the frontage immediately adjoining or across an alley there from the original parcel number, or by the owners of twenty percent (20%) of the frontage directly opposite the frontage of the original parcel number proposed to be altered

2. In the case of a written protest against a proposed amendment that affects land location within one and one-half (1 ½) miles of the limits of a zoned municipality, provided that said written protest is:
  - a) Submitted by the particular zoned municipality with limits nearest adjacent to the affected property
  - b) Signed and acknowledged by the City Council or by the Mayor and Board of Trustees of said municipality
  - c) Filed with the County Clerk

## **INCORPORATED AND REFERENCED MATERIALS**

Bond County Illinois Zoning Ordinance, Section 7, (2022)

Christian County Illinois Zoning Ordinance, Article 6 Supplementary Regulations, (7/17/2024)

Clinton County Illinois Zoning Ordinance, (2023)

DeKalb County Illinois Zoning Ordinance, Illustrations, (1999)

Fulton County Illinois Noise Pollution Act, Sections 1-8 (2011)

ICC International Zoning Code, Chapter 10 Sign Regulation, (2018)

Jersey County Health and Safety Standards for Manufactured Homes, Mobile Homes, Pre-Owned Manufactured Homes, Modular Homes (2017)

Jersey County Illinois Stormwater Ordinance, (2009)

Kendall County Illinois Zoning Ordinance, Sections 3:00, 3:02, 4:19, 5:08, 7:01. E, 8-8-46, 8-47-8-63, 11:05 (2023)

Lake County Illinois Zoning Ordinance, Section 151.114, (2022)

McClellan County Illinois Zoning Ordinance, Article 4, (2024)

Piatt County Nuisance Ordinance, (1999)

Sangamon County Illinois Zoning Ordinance, Chapter 17.64, (2020)

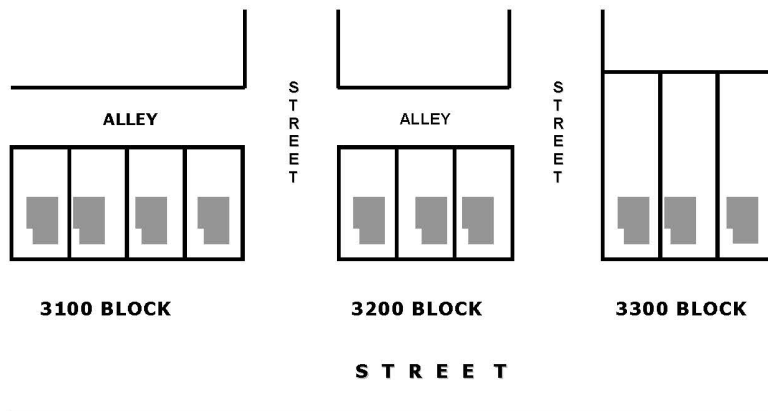
Will County Illinois Zoning Ordinance, Section 155-10.10, (2023)

Woodford County Illinois, Chapter 154 Zoning Ordinance, Sections 3-6, 18, 22, 24 (2023)

# ILLUSTRATIONS

## BLOCK

**Block** means all of the property located along one side of a street between two intersecting streets or between any combination of intersecting streets, railroad rights-of-way, watercourses or other features or natural barriers which permanently interrupt the continuity of development.

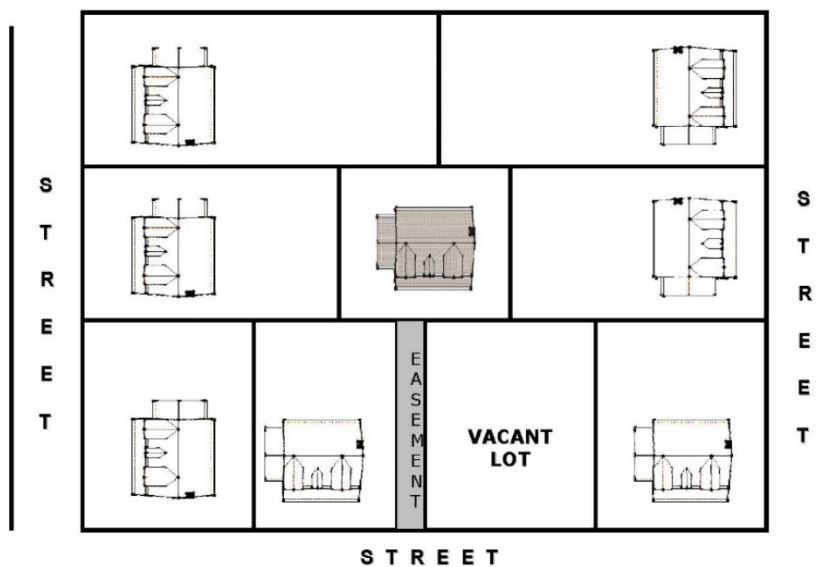


## STREET FRONTAGE

**Street frontage** means that portion of a lot abutting a street and situated between lot lines intersecting such street. Also referred to as "lot frontage."



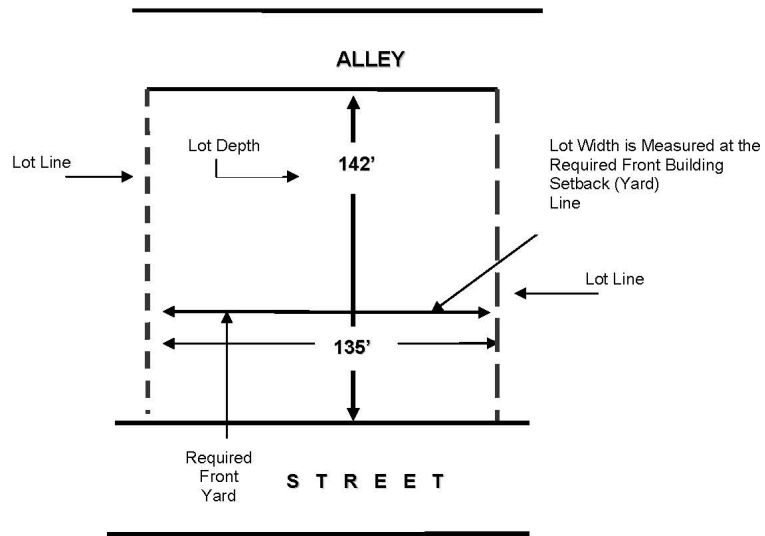
**Lot without Street Frontage**



## LOTS LOT AREA & WIDTH

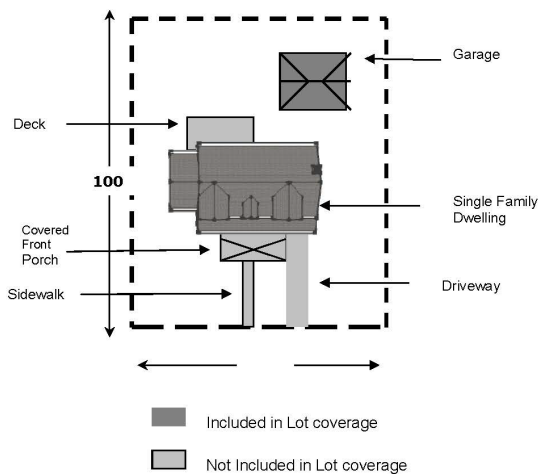
**Lot area**, is determined by multiplying the lot width x the lot depth.

**Lot width** means the shortest horizontal distance between the points where the rear of the required front yard intersects the sidelines of a lot. For through lots, the lot width shall be measured adjacent to the street frontage to which the main building is oriented.



## LOT COVERAGE

**Lot coverage** means that portion of a lot occupied at ground level or above by enclosed space within main buildings and accessory buildings.



### Example:

**TOTAL LOT AREA**  
= 6,600 SQ. FEET

**SINGLE FAMILY DWELLING**  
= 1,200 SQ. FEET

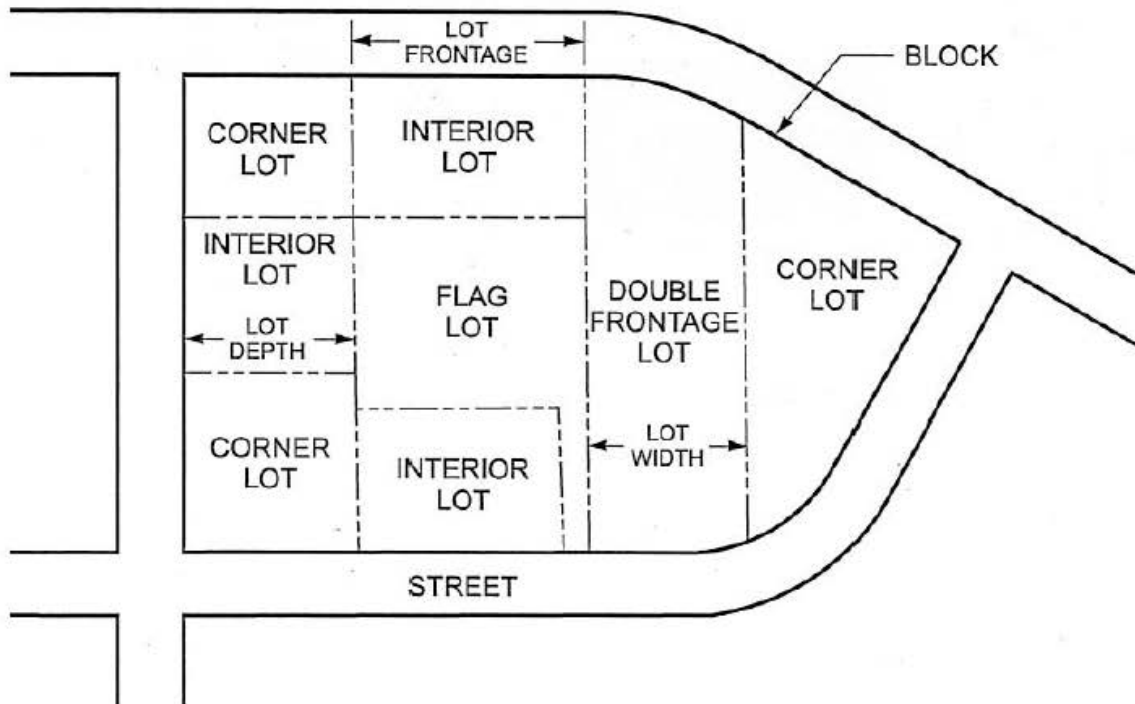
**GARAGE**  
= 300 SQ. FEET

$(1,500 \text{ SQ. FT.} / 6,600 \text{ SQ. FT.}) \times 100\%$   
= 23%

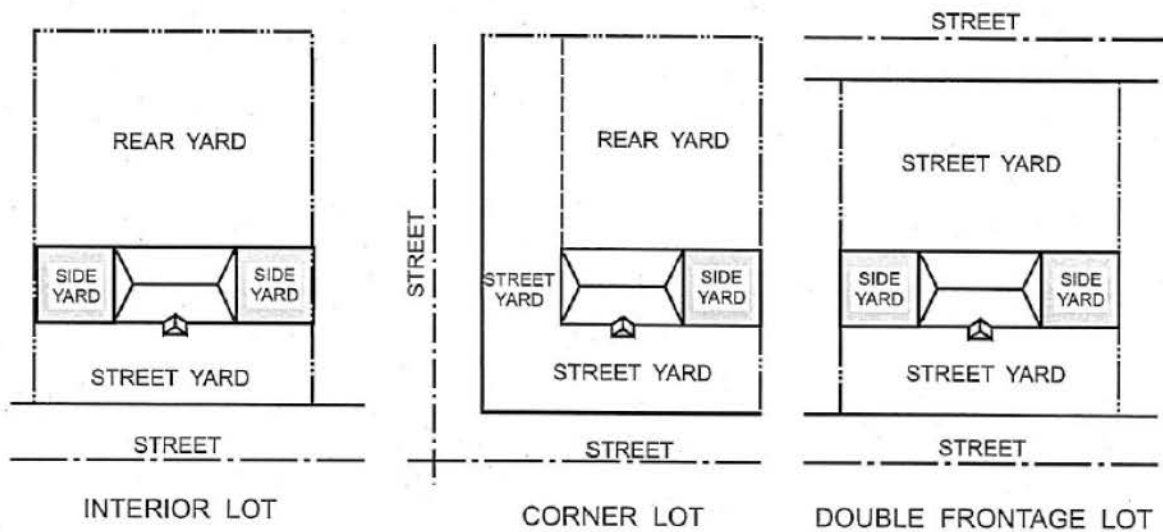
**TOTAL LOT COVERAGE**  
= 23%

**Note:** The driveway, sidewalk, covered porch and deck are not included in the lot coverage formula.

**TYPICAL CORNER, DOUBLE FRONTAGE,  
FLAG AND INTERIOR LOTS**

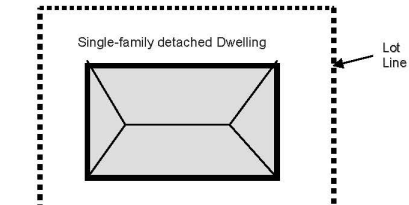


**LOCATION OF YARDS ON TYPICAL  
INTERIOR, CORNER, AND DOUBLE FRONTAGE LOTS**

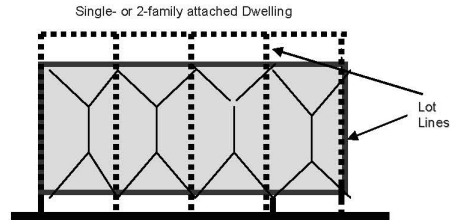


## Dwelling Types (Single- and 2-Family Detached and Attached & Multi-Family)

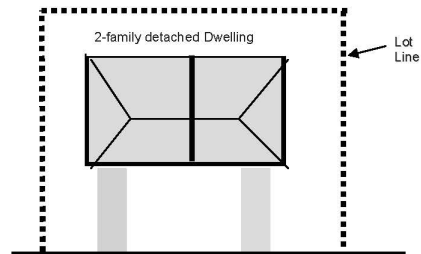
**Dwelling unit** means a room or group of rooms within a building constituting a separate and independent unit occupied or intended for occupancy by one family and containing one kitchen and provisions for living, sleeping, eating and sanitation, all of which are generally accessible to all occupants of the unit, and which is not available for occupancy for periods of less than one month.



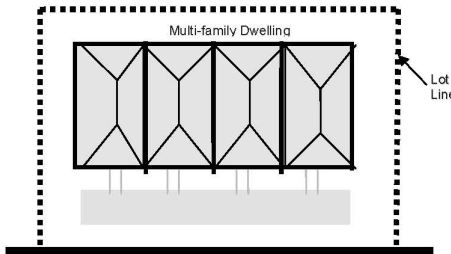
**Dwelling, single-family detached** means a building containing one dwelling unit, which is located on an individual lot of record.



**Dwelling, single-family attached** means a building which contains one dwelling unit and which is attached by means of party walls to another main building, each of which is located on an individual lot of record.  
**Dwelling, two-family attached** means a building containing two dwelling units and which is attached by means of party walls to another main building, each of which is located on an individual lot of record.



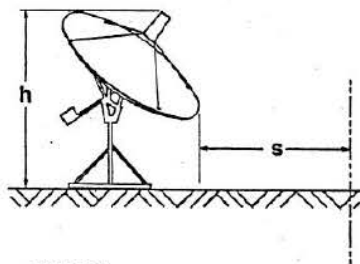
**Dwelling, two-family (detached)** means a building containing two dwelling units, which is located on an individual lot of record.



**Dwelling, multifamily** means a building containing three or more dwelling units located on a single lot.

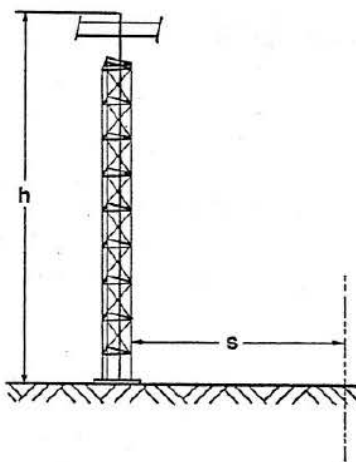
## MEASURING HEIGHT AND SETBACK OF ANTENNAS

EARTH STATION DISH ANTENNA

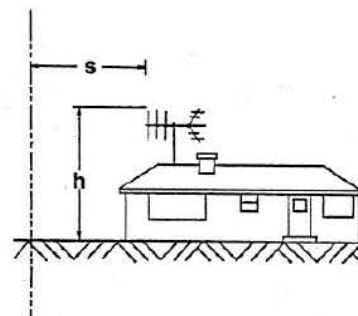


s = SETBACK  
h = HEIGHT

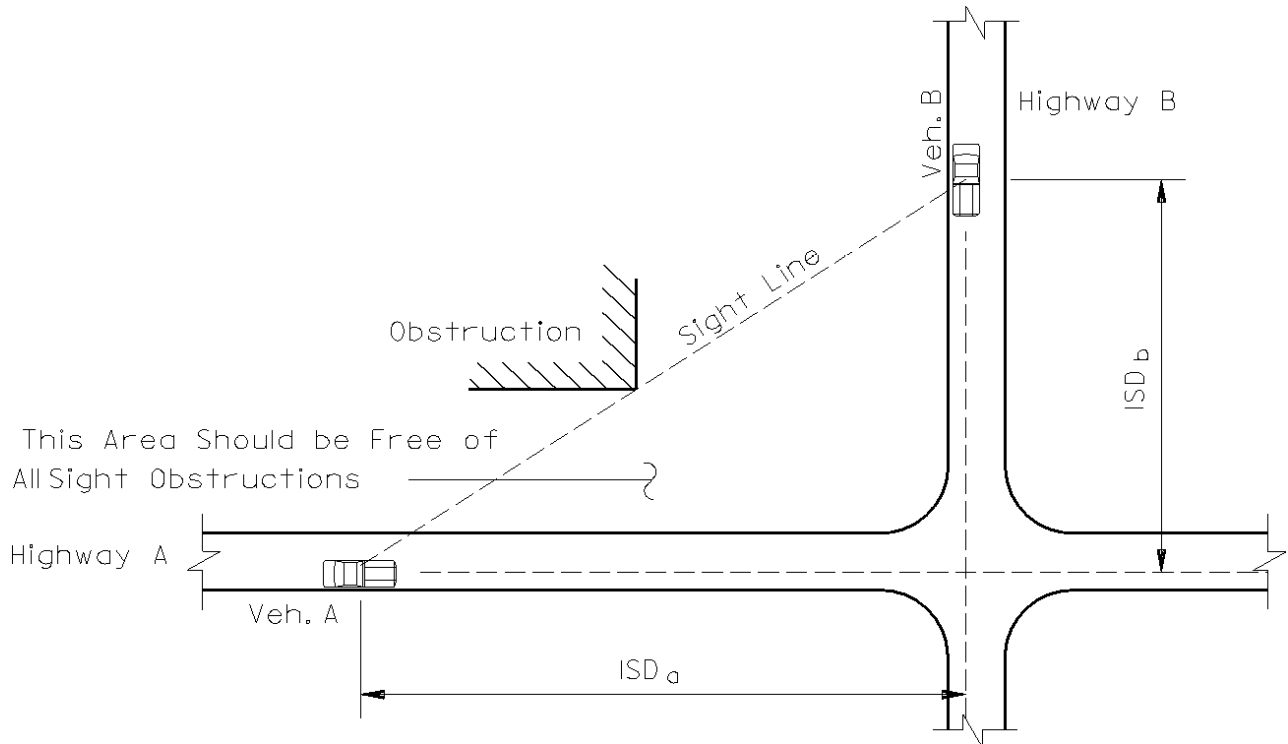
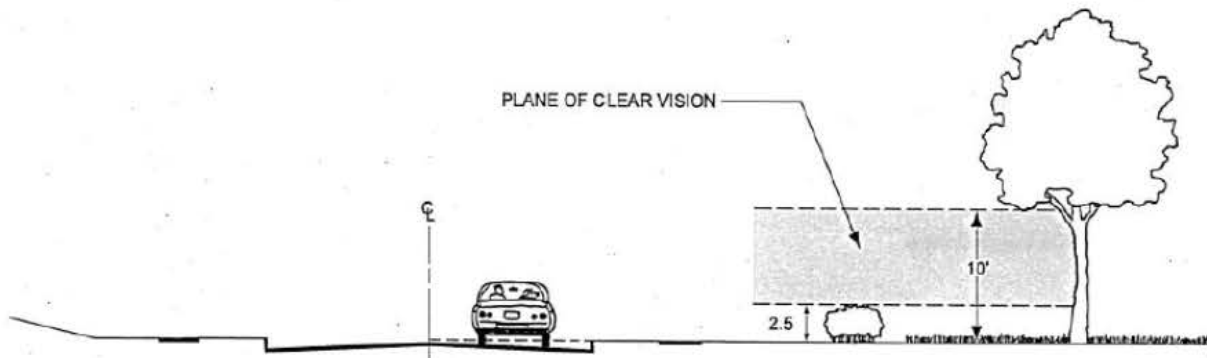
TOWER MOUNTED ANTENNA



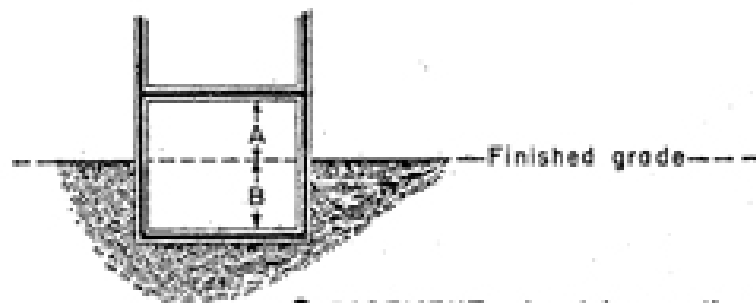
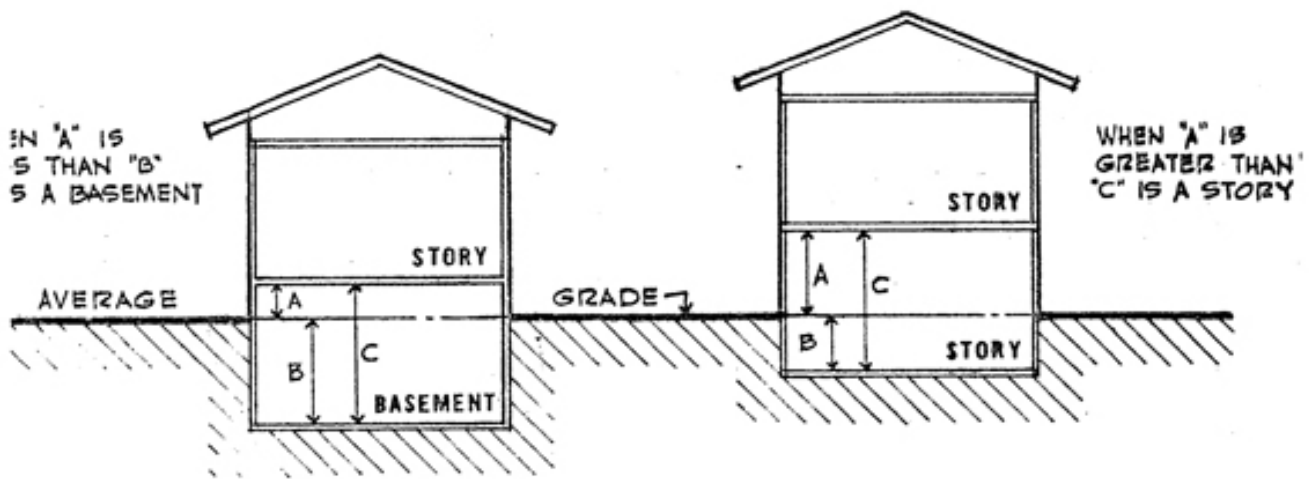
ROOF MOUNTED ANTENNA



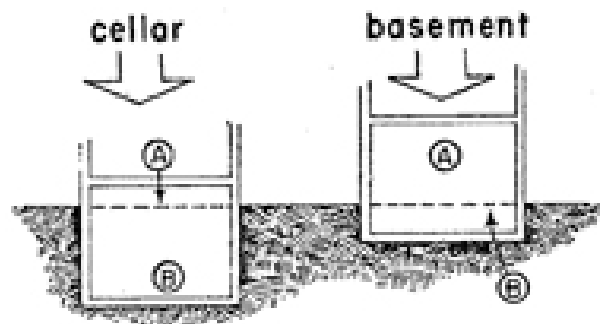
# **VISION CLEARANCE TRIANGLE (CROSS-SECTION VIEW)**



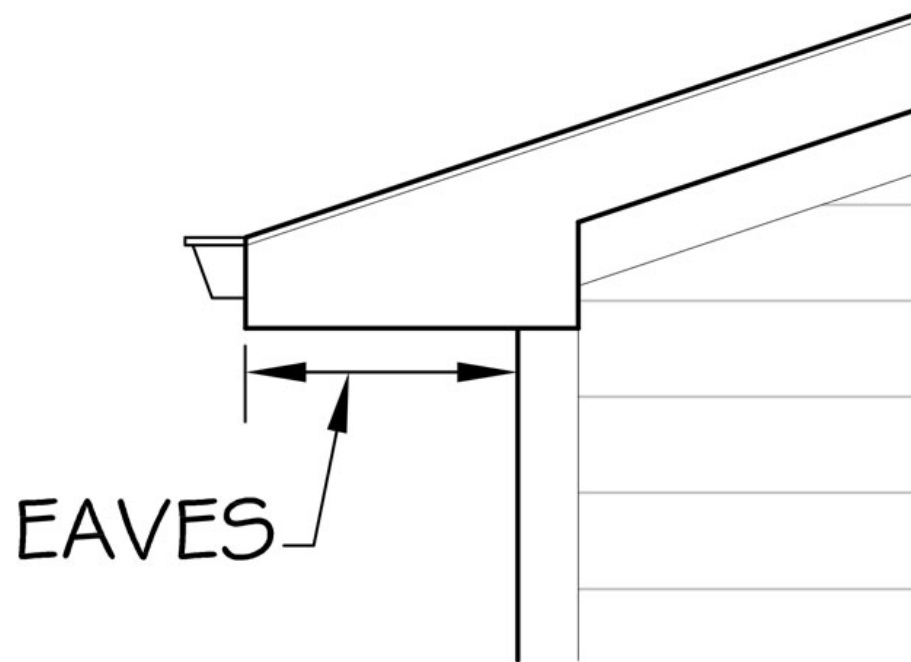
# BASEMENT AND CELLAR:



- BASEMENT: when A is more than B
- CELLAR: when A is equal to, or less than B

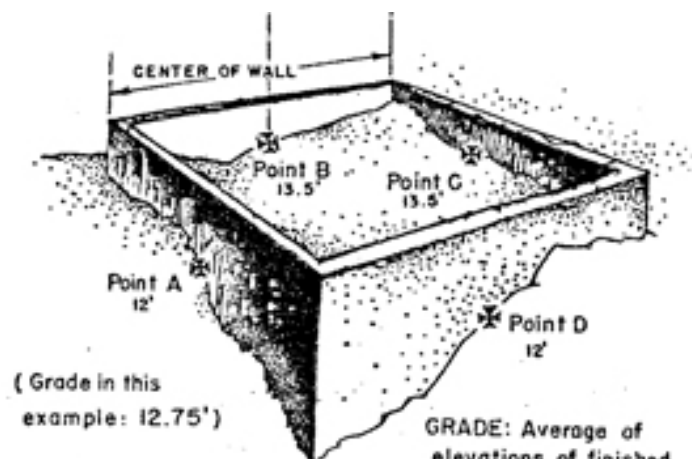
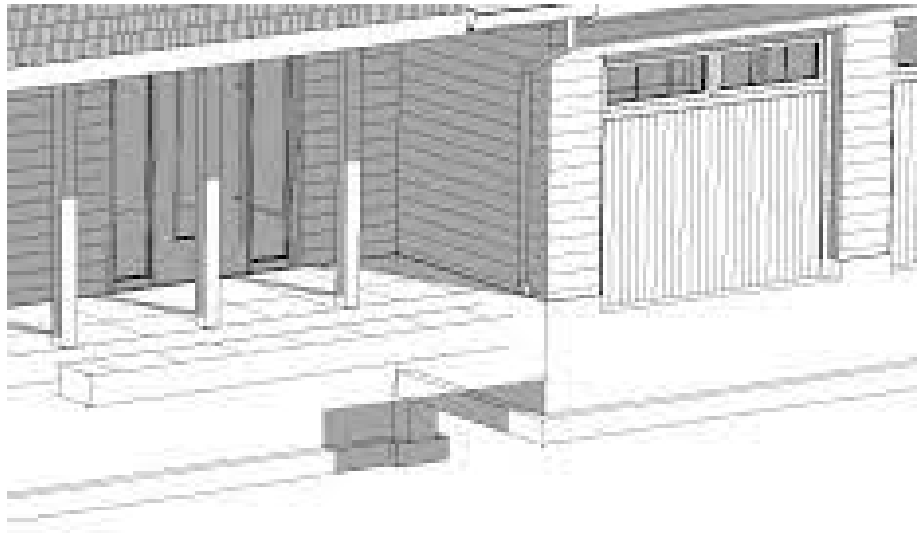


PROJECTIONS:

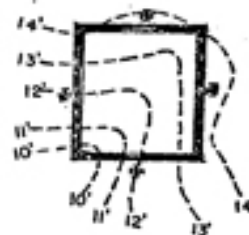
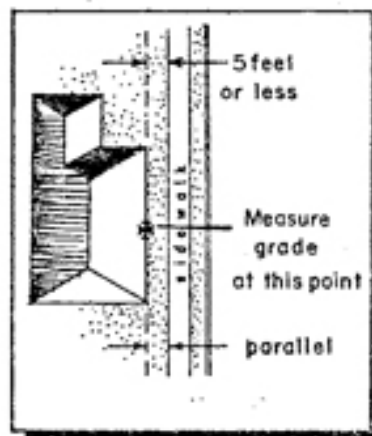
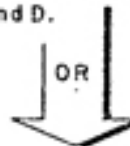


(Excludes rain trough)

## FOOTING AND GRADE:



GRADE: Average of elevations of finished ground levels of points A, B, C, and D.



## **APPENDIX**

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**A. ZONING FEE SCHEDULE**

**B. SUBDIVISION ORDINANCE**

**C. CONTROL OF STORMWATER DRAINAGE AND DETENTION**

**D. MENARD COUNTY FLOOD DAMAGE PREVENTION ORDINANCE**

**E. NON-COMMERCIAL SOLAR ORDINANCE OF MENARD COUNTY**

**F. SOLAR ENERGY SITING ORDINANCE OF MENARD COUNTY**

**G. WIND ENERGY SITING ORDINANCE OF MENARD COUNTY**

**H. BATTERY ENERGY STORAGE SYSTEMS**

## APPENDIX A

### Zoning Fee Schedule for Menard County

| Residential (R-1 & R-3) & Agricultural (A)                                                              | Zoning Permit Fees                                                                      |
|---------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| Dwellings                                                                                               | Base Cost: \$200<br>Plus: .25¢ per Square Foot including attached garage square footage |
| Mobile Homes & Manufactured Homes - including "Tiny Homes"                                              | \$500                                                                                   |
| Elder Cottage Housing Opportunity - E.C.H.O.                                                            | \$250                                                                                   |
| Accessory Structures                                                                                    | Structures 200 square feet or more: .15¢ per square foot<br>w/Minimum Fee of \$100      |
| Ag Labor Housing & Accessory Structures Primarily Used for Agricultural Purposes                        | No Fee Charged Charged with affidavit on file                                           |
| Accessory Structures Primarily Used for Agricultural Purposes<br><i>*Agricultural (A) District ONLY</i> | No Fee Charged with affidavit on file                                                   |
| Swimming Pools (Above Ground & In Ground)                                                               | \$75                                                                                    |
| Decks/Covered Patios                                                                                    | .15¢ per square foot w/Minimum Fee of \$75                                              |

| Downtown Business (B1) & Highway Business (B2)                        | Zoning Permit Fees                             |
|-----------------------------------------------------------------------|------------------------------------------------|
| All Structures in Areas Zoned "B1 or B2"<br>(Unless otherwise stated) | Base Cost: \$200<br>Plus: .27¢ per Square Foot |

| Manufacturing (M1)                                              | Zoning Permit Fees        |
|-----------------------------------------------------------------|---------------------------|
| All Structures in Areas Zoned "M1"<br>(Unless otherwise stated) | 0.3% of Construction Cost |

| Public Lands (P-L)                                               | Zoning Permit Fees        |
|------------------------------------------------------------------|---------------------------|
| All Structures in Areas Zoned "P-L"<br>(Unless otherwise stated) | 0.0% of Construction Cost |

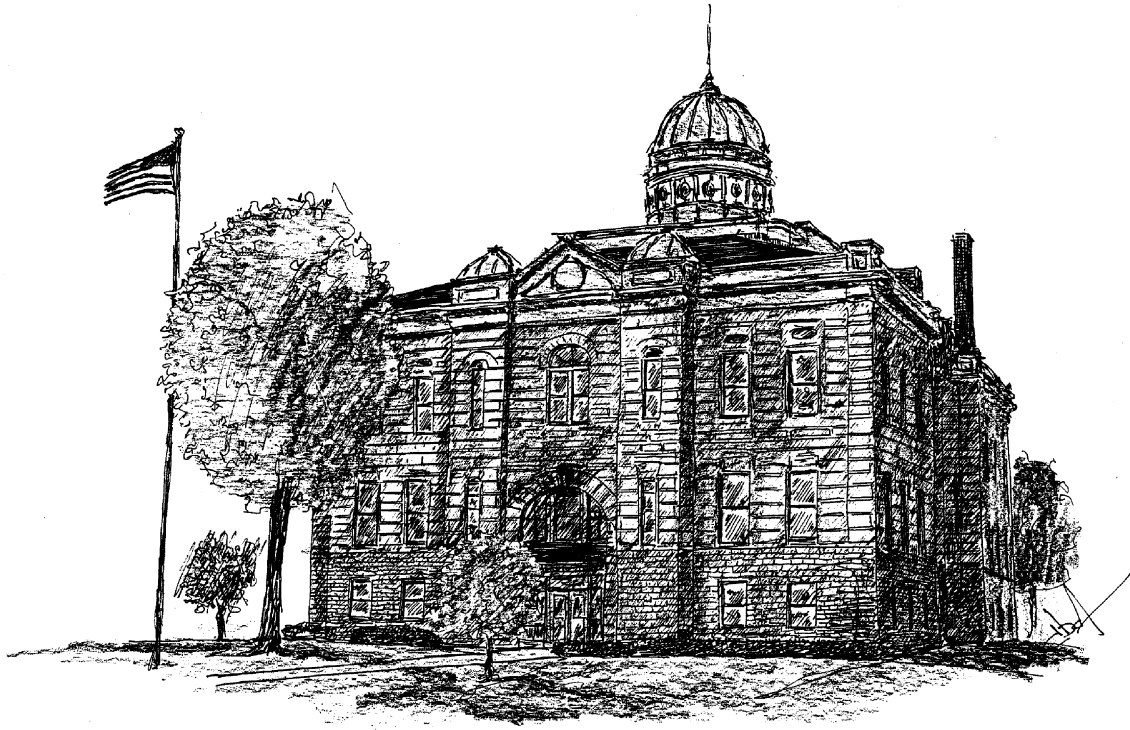
| Miscellaneous                                                                                       | Zoning Permit Fees                                                                                                                                          |
|-----------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Small Scale Solar Energy Systems (Residential Use)<br><i>*Does Not Require a Special Use Permit</i> | 1kW - 10kW: \$75<br>11kW - 20 kW: \$150<br>21kW - 50 kW: \$300<br>51kW - 100W: \$500<br>101kW - 500W: \$1000                                                |
| Commercial Solar Energy Systems<br><i>*Requires a Conditional Use Permit</i>                        | \$8000 per MW plus \$1000 per additional MW and and fraction thereof                                                                                        |
| Tier 1: Battery Energy Storage Systems (BESS)(Residential Use)                                      | 1kW - 10kW: \$75<br>11kW - 20 kW: \$150<br>21kW - 50 kW: \$300<br>51kW - 100W: \$500<br>101kW - 500W: \$1000<br><i>*Based on total rated Power Capacity</i> |
| Tier 2: Battery Energy Storage Systems (BESS)<br><i>*Tier 2 BESS Require a Special Use Permit</i>   | 601kW - 999kW: \$5,000<br>\$8000 per MW plus \$1000 per additional MW and and fraction thereof.<br><i>*Based on total rated Power Capacity</i>              |
| Cellular Towers, Communication Towers, Utilities Governed by Height, Small WECS & Commercial WECS   | \$25.00 per Vertical Foot of Tower Height                                                                                                                   |
| Utility Tower Equipment Replacements & Additions Co-Location                                        | \$2,750 per site                                                                                                                                            |
| Utility Transmission Equipment Replacements & Additions - Requires a Special Use permit             | \$750 per pole                                                                                                                                              |
| Commercial New Construction - includes Plan Review and Building Permit Fee                          | \$4.00 per \$1000.00 Construction Cost with \$500.00 minimum                                                                                                |

|                                                                                                 |                                                                                                                                                  |
|-------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| Additions or alterations to Commercial Structures                                               | \$2.00 per \$1000.00 Construction Cost with \$250.00 minimum                                                                                     |
| Signs                                                                                           | \$1.00 per square foot greater than 64 square feet<br>\$40.00 Minimum<br>(Based on square ft. surface area of all advertising faces of the sign) |
| Stop Work Order:                                                                                |                                                                                                                                                  |
| Residential                                                                                     | \$200.00                                                                                                                                         |
| Agriculture                                                                                     | \$25.00                                                                                                                                          |
| Commercial/Industrial                                                                           | \$500.00                                                                                                                                         |
| Re-inspection Fee:                                                                              | \$75.00                                                                                                                                          |
| Raw Square Footage: Fifty (50) Square feet or more                                              | \$40.00 plus \$0.10 per additional square foot                                                                                                   |
| Fence or Retaining Wall                                                                         | \$50.00 per permit                                                                                                                               |
| Shed Permit: Structures 120 square feet or less, no Charge; Structures 120 square feet or more: | \$50.00 per permit                                                                                                                               |
| Demolition Permits                                                                              | \$50.00 per permit                                                                                                                               |
| Zoning Certification & Flood Plain Certification Letters                                        | \$20.00 Each                                                                                                                                     |
| Occupancy Certificates                                                                          | \$10.00 Each                                                                                                                                     |

| Filing Fees for Public hearings      | Zoning Permit Fees |
|--------------------------------------|--------------------|
| Temporary Use                        | \$200.00           |
| Appeals:                             | \$300.00           |
| Special Uses:                        | \$300.00           |
| Rezoning: Zoning District Amendments | \$300.00           |
| Variances:                           | \$300.00           |
| Special Home Occupation              | \$200.00           |
| Administrative Variances:            | \$100.00           |

| Other Code Fees                                                          | Zoning Permit Fees                          |
|--------------------------------------------------------------------------|---------------------------------------------|
| 911 Addressing Fee:                                                      | \$25.00 per address                         |
| 911 Addressing - New Subdivision:                                        | \$20.00 per lot                             |
| Subdivision - Preliminary Plat:                                          | \$25.00 per lot-\$300.00 min/\$1000.00 max  |
| Subdivision - Final Plat: (Due at the time of submitting the Final Plat) | \$150.00 plus \$25.00 per lot/\$1000.00 max |
| Flood Plain Development Permit:                                          | \$100.00                                    |

# **SUBDIVISION ORDINANCE OF MENARD COUNTY**



A Center of Lincoln's Illinois

Adopted:  
Effective: January 1, 1999

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## ARTICLE I

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

§1.02 SOURCE OF AUTHORITY. This code is adopted pursuant to legislative authorization codified at 55 ILCS 5/5-1041, 50 ILCS 805/1 et.seq. and other applicable statutory provisions, including without limitation, the plat act 765 ILCS 205.

### Intergovernmental Relations

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

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

1. zoning and subdivision matters within Petersburg, Athens and Greenview: by Petersburg, Athens, and Greenview exclusively;
2. zoning matters including zoning and occupancy permits in Menard County outside Petersburg, Athens, and Greenview (including decisions within the corporate limits of any other municipality): by Menard County. Petersburg, Athens, and Greenview have “protest: powers pursuant to Section 55 ILCS 5/5 12014, for zoning matters within 1 ½ miles of their corporate limits;
3. subdivision regulations in Menard County within 1-½ miles of Petersburg, Athens, and Greenview: both sets of regulations apply. The subdivision must be approved by both the County and the applicable municipality. The higher or more demanding standard applies;
4. subdivision regulations in Menard County more than 1 ½ miles from Petersburg, Athens, and Greenview: by Menard County exclusively.

### §1.03 EFFECTIVE DATE.

This code is effective January 1, 1999.

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

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

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

- D. to protect and promote the “public interest”;
- E. to guide public and private decision making so as to provide an adequate and efficient:
  - 1) vehicular and pedestrian transportation system,
  - 2) water supply and distribution capability,
  - 3) sanitary sewerage collection and treatment system,
  - 4) storm water detention and run-off facilities,
  - 5) recreational areas, public schools and other public facilities concurrent with development;
- F. to establish standards that require developers to bear public costs that are specifically and uniquely attributable to the activity generated by the subdivision.

#### Specifically and Uniquely Attributable

What costs can a subdivider be required to pay as a condition of subdivision approval?

This question has prompted much debate among land use “experts”, much controversy at the local government level and much litigation in state and federal courts.

The broad issue is referred to as development contributions, exaction requirements, and/or impact fees.

In essence, the current state of the law is that there must be some correlation between the fee or exaction imposed and the burdens created by the development activity. Federal courts focus on a “rational nexus” test, i.e. there must be a reasonable relationship or “rough proportionality” between the exaction and the impact or burden created by the development activity (mathematical exactitude is not required). Illinois courts use a more conservative “specific and uniquely attributable test”; a test that requires:

1. the exaction to be uniquely attributable to the needs generated by the development, and
2. that the subdivision enjoys the benefit of the exaction (*pioneer Trust and Savings Bank v. Village of Mt. Prospect*, 22 Ill. 2d 375, 176 n.e. 2d 799 (1961) *Krugoff v. City of Naperville*, 68 Ill. 2d 252, 369 n.e. 2d 892 (1977), *Northern Illinois Homebuilders Association v. County of DuPage*, 165 Ill. 2d, 25 649 n.e. 2d 384 (1995) *Nolan v. California Coastal Commission*, 483 S.S. 825 (1987) *Dolan v. City of Tigard*, 114 s.ct. 2309 (1994).

In summary, Menard County’s subdivision code requires developers to bear all costs necessary to provide proposed lots with a) streets located in dedicated rights-of-way and built to specified standards, b) safe and environmentally secure water and sewage treatment systems, c) control of storm water drainage which would otherwise be increased or impacted by development activity and d) the dedication or reservation of land and/or the payment of a fee in lieu for public parks and in some cases public schools to the extent development activity from the subdivision creates or impacts the need for such facilities.

## ARTICLE II

§2.01 RULES OF CONSTRUCTION. This code shall be interpreted in accordance with the following rules of construction, unless the context clearly requires a different construction:

- (A) The singular includes the plural and the plural the singular.
- (B) The present tense includes the past and future and the future includes the present.
- (C) The word “shall” is mandatory, while the word “may” is permissive, however, all provisions of this code imposing duties upon Menard County, its officers or agents are directory, unless the context clearly requires the provisions be construed as mandatory.
- (D) Terms connotating a particular gender shall include each and every gender.
- (E) Whenever a word or term defined hereinafter appears in the text of this code its meaning shall be construed as set forth in the definitions thereof, and any word appearing in the parenthesis between a word and its definition shall be construed in the same sense as that word.
- (F) All measured distances shall be to the nearest integral foot and if a fraction is one-half (1/2) foot or more the integral foot next above shall be taken.
- (G) All words and terms not defined shall be construed in their generally accepted meanings.

## ARTICLE III GENERAL PROVISIONS

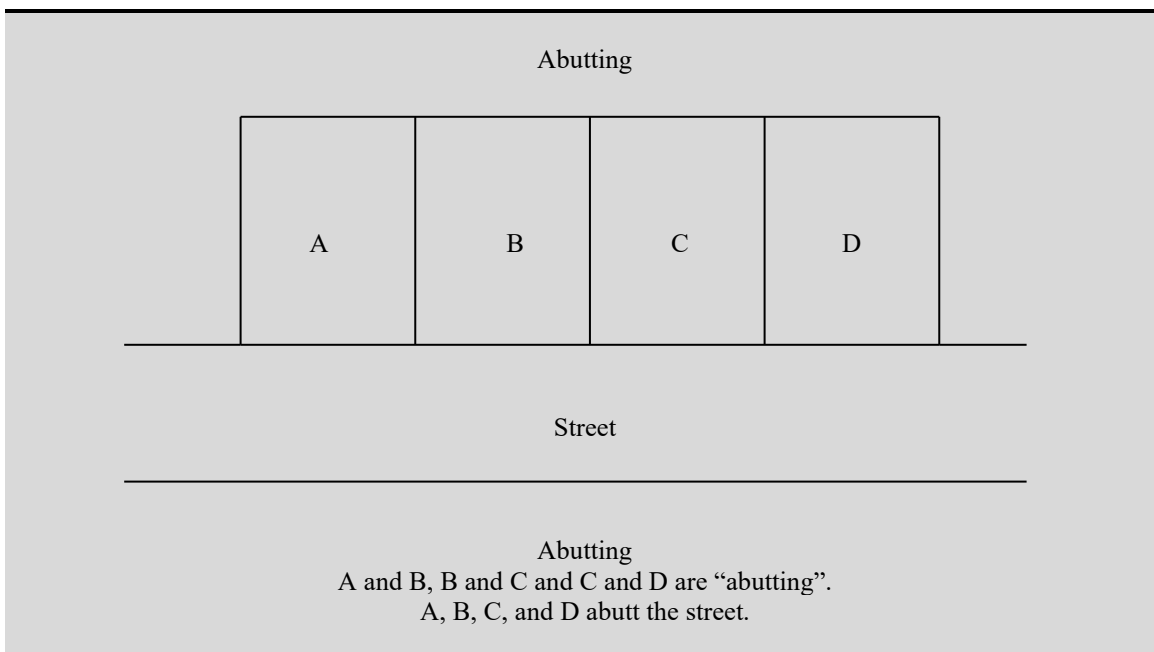
### §3.01 INTERPRETATION.

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

## ARTICLE IV

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

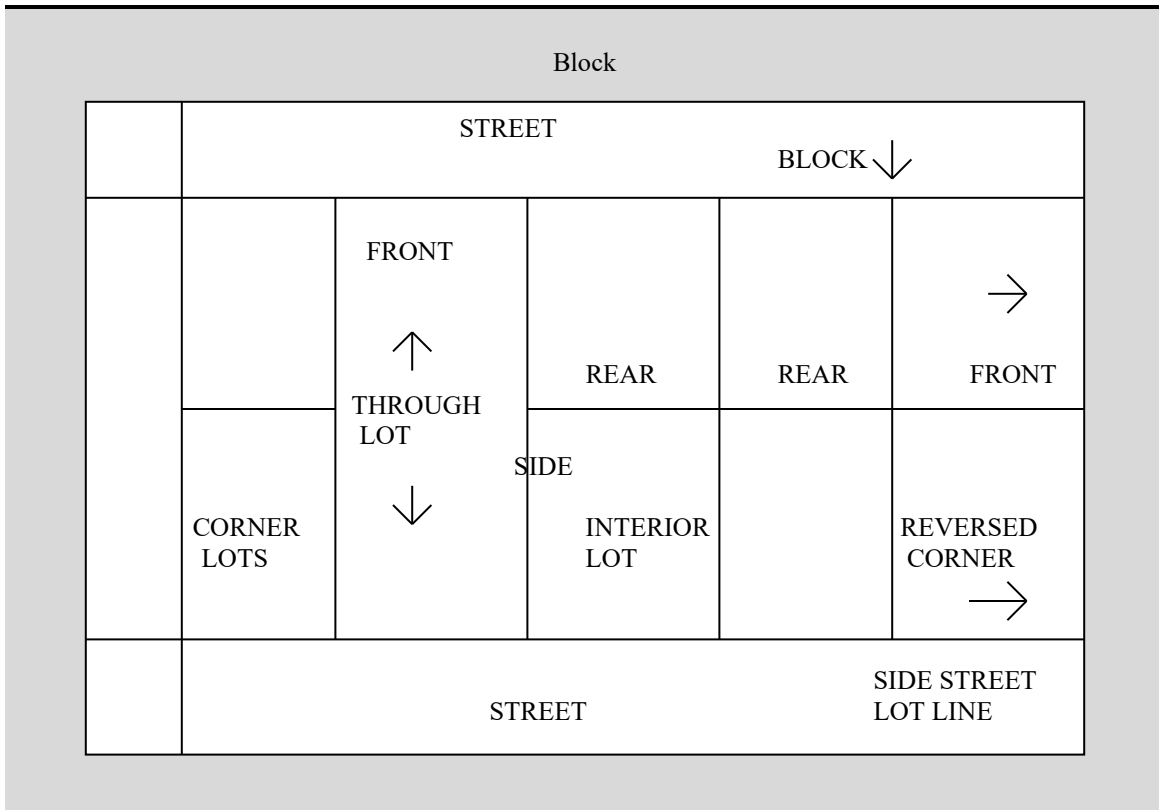
Abutting (Contiguous, Adjacent). Abutting means have one or more common boundary lines or district lines.



Access. The way in which people and motor vehicles get to and from public roads to lots in a subdivision.

Approved Private Means of Access. A private means of access meeting the requirements of §8.02 F.

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



Community Water Supply. A public water supply which serves or is intended to serve at least 15 service connections used by residents or regularly serves at least 25 residents at least 60 days per year.

Developer. A person desiring to subdivide property acting with the authorization of the owner.

Easement of Access. The right to cross the property of another for the purpose of obtaining access to or from a public street, road or right-of-way.

Improved Public Road. A public road located in a dedicated public right-of-way and constructed to meet or exceed the standards of §8.03.

Infrastructure. The way in which access, water supply and distribution, sewage collection and disposal, and storm water run off collection, control and discharge are provided to and for each lot in a subdivision.

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

#### “How to Describe Land”

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

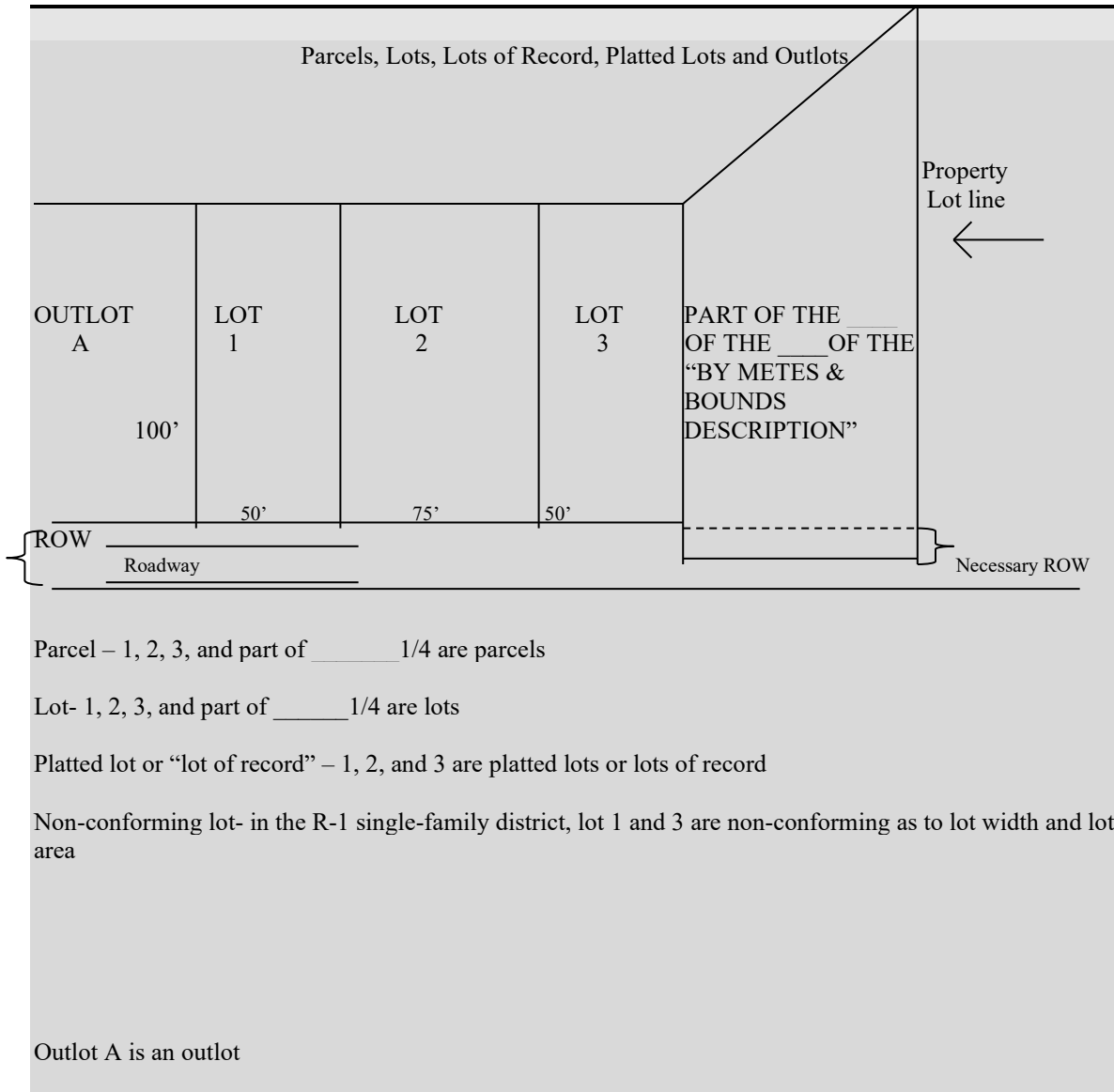
The most general term is “property”. That term is defined as “real property or any interest in real property”. Individual ownership, joint tenancy, tenancy in common and tenancy by the entirety are terms used to describe ways in which property is titled. Those terms don’t have much relevance to the zoning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

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

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

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

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



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

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

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

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

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

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See Block

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

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See Block

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

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See Block

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

[illegible]

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

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

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

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

Necessary Right-of-Way.

A. 100' for the following roads:

Illinois Route 97  
Illinois Route 123  
Illinois Route 29  
Greenview Middletown Blacktop (C.H. 1)  
Athens Blacktop (C.H. 2)  
Fancy Prairie Road (C.H. 3)  
Gudgel Road (C.H. 4)  
Neumansville Road (C.H. 6)  
East Oakford Road (C.H. 7)  
North Petersburg Road (C.H. 7)  
Sweetwater Road (C.H. 10)  
Peoria Road (C.H. 10)  
Quarry Road (C.H. 12)  
West Oakford Blacktop (C.H. 12)  
Atterberry Road (C.H. 13)  
South Athens Blacktop (C.H. 14)  
Curtis Blacktop (C.H. 16)  
Altig Bridge Road (C.H. 17)  
Rahman Road  
Spears Road  
Salt Creek Bottom Road (TR 120)  
John Hubly Road  
Levee Road

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

B. 80' for the following roads:

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

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

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

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

Non-Community Water Supply. A public water supply that is not a community water supply.

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

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

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

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

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

Owner. The person(s) or entity that holds title to property.

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

Planning Commission. The Regional Planning Commission of Menard County created and empowered pursuant to ILCS 5/5-14001 et.seq.

Private Means of Access. Any road, drive, lane, or easement other than a public road.

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

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

Public Road/Public Street. A road accepted, operated and maintained by the State of Illinois, Menard County or a public road district or which when dedicated and built to the Standards required by this Code will be so accepted, operated and maintained by the State of Illinois, Menard County, or a public road district.

#### HOW ROADS BECOME PUBLIC

Lots in a subdivision ordinarily front on and take direct access from public streets or roads. In some cases lots have no street frontage and take access over “easements of access”. Some roads are open for the first time as part of the subdivision process. Other roads are existing and are changed in some way during the process of subdividing adjacent land. The platting of a new road and/or the use of an existing road does not necessarily make that road a public road. Roads become public roads in the following ways:

1. Through the Subdivision Process.
  - a. At that time a final plat is recorded, the subdivider “dedicates” all right-of-ways shown on the plat (which is all of the right-of-way required for interior streets and half the right-of-way required for abutting streets plus any additional right-of-way for turning lanes and other necessary road improvements).
  - b. The dedication of right-of-way that occurs when a final subdivision plat is recorded transfers ownership from the subdivider to the public. That act alone does not create or open a public road.
  - c. As part of the subdivision process, the owner/developer is required to improve the road to certain specified standards. After the developer completes the construction, the installation needs to be inspected and approved by the County Engineer. After inspection and approval, the County and/or applicable road District needs to “accept” the street for maintenance. It is the act of accepting the street for maintenance that makes a proposed road a public road. Prior to that time, the road is private even though constructed on a dedicated public right-of-way. A subdividers “workmanship guarantee” extends for one year after the streets in the subdivision are inspected, approved and accepted for maintenance.

If a road district and/or the County is opposed to accepting a street for maintenance, that opposition should be articulated during the subdivision review and approval process, not after the process is complete.

The other method roadways become public is through the petition and acceptance procedures of Section 605 ILCS 5/6-301 et.seq.

Public Water Supply. All mains, pipes and structures through which water is obtained And distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use. A public water supply is either a “community water supply” or a “non-community water supply”.

Residential Subdivision. A subdivision proposed for residential use of depicting a lot Layout and design suitable for residential use.

Services. The way in which recreational amenities and school facilities are provided to or for each lot in a residential subdivision.

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

Subdivide. To divide real property into two or more parts, lots, pieces, parcels, units or tracts for the purpose of offer, sale, lease, or other conveyance regardless of means or method whether by deed, metes and bounds description, map, plat, plan, drawing or other document including without limitation the creation of easements of access.

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

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

Zoning Administrator. The Zoning Administrator is as appointed by the County Board.

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

## ARTICLE V

### 5.01 REGULATORY PROVISIONS.

It shall be unlawful for any person:

- A. to subdivide except in compliance with this code.

Exceptions:

The code shall not apply to the following:

1. The division or subdivision of land into parcels or tracts of 5 acres or more in size which does not involve any new streets or easements of access;
2. The division of lots or blocks of less than 1 acre in any recorded subdivision which does not involve any new streets or easements of access;
3. The sale or exchange of parcels of land between owners of adjoining and contiguous land;
4. The conveyance of parcels of land or interests therein for use as a right of way for railroads or other public utility facilities and other pipe lines which does not involve any new streets or easements of access;
5. The conveyance of land owned by a railroad or other public utility which does not involve any new streets or easements of access;
6. The conveyance of land for highway or other public purposes or grants or conveyances relating to the dedication of land for public use or instruments relating to the vacation of land impressed with a public use;
7. Conveyances made to correct descriptions in prior conveyances;
8. The sale or exchange of parcels or tracts of land following the division into no more than 2 parts of a particular parcel or tract of land existing on July 17, 1959 and not involving any new streets or easements of access;
9. The sale of a single lot of less than 5 acres from a larger tract when a survey is made by an Illinois Registered Land Surveyor, provided, that this exemption shall not apply to the sale of any subsequent lots from the same larger tract of land, as determined by the dimensions and configuration of the larger lot on October 1, 1973.

B. To violate or fail to adhere to any requirement of this Code.

Creation of a Street or Easement of Access

Original Facts.

'A' owns 120 acres that has its only frontage and access from an abutting public road. There is a small fishing cabin on a pond at the rear of the property which 'A' from time to time, lets other people use. Users get to the cabin by driving from the public road over 'A's' property on a rutted lane to the cabin.

Alternative 1.

'B' wants to use the cabin. 'A' can give permission without the need to subdivide. The use of the land and the lane is permissive and there is no "division" of land involved.

Alternative 2.

'B' wants to lease the cabin and the right to use the lane for 5 years. He can because "leases" are an exception to the subdivision ordinance.

Alternative 3.

'B' wants to purchase the cabin and 5 + acres of land. 'A' can not make the sale to 'B' without subdividing. If 'A' sells 'B' a land locked piece of property, he will either create an easement by implication or necessity or in some other way have created in 'B' the right to cross 'A's' property, a "right" that did not exist previously.

Altered facts.

'A' owns 100 acres whose sole access is from a public road. 'B' owns an adjoining 20 acres and a fishing cabin. The sole access to the 20 acre tract is over an existing "access easement" across 'A's' property.

Alternative 1.

'B' wants to sell 20 acres to 'C'. 'B' can do so, lawfully, without the need to subdivide unless the existing access easement was "personal and non-transferable". Ordinarily, access easements run to the property, not to individual users and in that case can be transferred.

Alternative 2.

'B' wants to sell 10 acres to 'C' and 10 acres to 'D', this can be done without subdividing since the 2 tracts are greater than 5 acres and therefore are exempt from the subdivision ordinance and since the easement of access is not new.

Alternative 3.

'B' wants to sell 17.5 acres to 'C' and 2.5 acres to 'D'. NO. This requires subdivision since one parcel involved is less than 5 acres.

Alternative 4.

'A' wants to sell 10 acres adjacent to 'B's' property to 'E' and let 'E' use the same access easement that 'B' uses across 'A's' property. NO. This requires subdivision. By giving additional property the right to use the access easement, 'A' has created a new easement of access which brings the conveyance within the scope of the subdivision ordinance. 'A' could possibly avoid the subdivision code by configuring the parcel he was selling to 'E' so it has frontage and access directly on the abutting public road. In that case, the conveyance of 10 acres without the creation of a new access easement would not be subject to Menard County's Subdivision Code.

**CAUTION****CAUTION****CAUTION**

Just because a parcel of land can be lawfully divided and conveyed (either through the subdivision process or as an exception to the Subdivision Code) does not mean the resulting piece or parcel can be used. Use is regulated by the Zoning Code, not the Subdivision Code. For example, if land is zoned A-Agricultural in Menard County, the creation of five-acre tracts (using Exception No. 1) does not create lawful residential homesites. In the A-Agricultural district, non-farm residences require 30 acres, minimum. The lawful division and use of land requires compliance with both the Zoning Code and Subdivision regulations.

## ARTICLE VI

### SUBMISSION PROCEDURES

#### PROCEDURAL OVERVIEW

The approval of a subdivision ordinarily involves the following steps:

1. An informal pre-application review between the zoning & engineering staff of the County and the developer and developer's engineer and/or representative and required Illinois Department of Natural Resources consultation;
2. The submission, review and approval of a preliminary subdivision plan;
3. The submission, review and approval of engineering plans and specifications and an estimate of construction cost;
4. The preparation, review, approval and recording of a final subdivision plat;
5. The posting of:
  - a. An agreement by the subdivider to install all public improvements in accordance with the subdivision ordinance and security for that agreement in the form of a corporate surety, cash escrow or irrevocable letter of credit;
  - b. An agreement by the subdivider to install or contribute to the cost of installing all substandard adjacent streets which agreement is also secured by a corporate surety, cash escrow or irrevocable letter of credit;
6. The installation of all required public improvements by the subdivider to the County's standards;
7. The submission, review and approval of "as built" plans;
8. The inspection, approval and acceptance for maintenance of all public improvements;
9. After one year and assuming no workmanship claims, the release of the subdivider's bond and security.

An expedited procedure is available for subdivisions involving three or fewer lots.

**6.01 PRE-APPLICATION PROCEDURE.** An owner or developer may schedule one or more pre-application conferences with representatives of Menard County for the purpose of reviewing development proposals, sketch plans and comparable preliminary data. The pre-application conference shall be arranged through the Zoning Administrator. The purpose of a pre-application conference is to review material which is in a preliminary conceptual form and which may, after review and comment, be refined by the owner or developer into a preliminary subdivision plan. There are no particular requirements for the submission of materials at a pre-application conference, however, the more information such as sketch plans, site information, adjacent land uses, proposed density that the developer has, the more meaningful the feedback from the conference will be.

**6.02 PRELIMINARY PLAN SUBMISSION AND REVIEW PROCEDURES.** Before subdividing any land subject to requirements of this Code, the owner or developer shall comply with the following Preliminary Plan submission, review and approval procedure:

- A. **Submission.** The owner or developer shall submit to the Zoning Administrator copies of a Preliminary Plan in the form and providing all information required by Section 7.01 et seq.

- B. Filing Fee. An application for approval of a Preliminary Subdivision Plan shall be filed with the Zoning Administrator and be accompanied by the following fee, payable to Menard County:

|                                          |          |
|------------------------------------------|----------|
| Less than 2 acres                        | \$150.00 |
| At least 2 acres but less than 15 acres  | \$300.00 |
| At least 15 acres but less than 25 acres | \$450.00 |
| 25 acres or more                         | \$700.00 |

- C. Consultation. The applicant shall provide evidence that they have completed consultation with the Illinois Department of Natural Resources (520 ILCS 10/11, 525 ILCS 30/17, Illinois Administrative Code, Title 17, Part 1075) to the Zoning Administrator before legislative public hearings are scheduled before the Planning Commission and the Zoning Board of Appeals.
- D. Scheduling and Notification of Public Hearing. Upon receipt of a Preliminary Plan and required filing fee, the Zoning Administrator shall schedule and give notice of two legislative public hearings, one before the Planning Commission and one before the Zoning Board of Appeals.
- E. Legislative Public Hearing and Recommendation. The Planning Commission and Zoning Board of Appeals shall conduct legislative public hearings on the Preliminary Plan during which each shall determine the extent to which the plan conforms or fails to conform with the standards of this Code and each shall, not later than ninety (90) days after the adjournment of the legislative public hearing, transmit a recommendation on the plan to the County Commissioners. The Zoning Board of Appeals and Planning Commission may recommend approval of a Preliminary Plan with an approval recommendation conditioned upon the making of one or more changes in the proposal, which such changes shall be enumerated in the Board's or Commission's transmittal to the County Commissioners or may transmit the plan to the County Commissioners without recommendation. Should the Zoning Board of Appeals and/or Planning Commission fail to act within the ninety (90) days from the adjournment of the public hearing, or fail to adjourn the public hearing within 120 days of its commencement, the plan shall be submitted to the County Commissioners without recommendation.
- F. County Approval or Rejection of a Proposed Preliminary Plan. Within sixty (60) days after receipt of the Planning Commission and Zoning Board of Appeals recommendation or within 180 days from the filing date of the Preliminary Plan, whichever occurs first, the County Commissioners shall approve or reject the proposed Preliminary Plan. Failure of the County Commissioners to act within the prescribed time period shall constitute denial of the Preliminary Plan.

- G. Extension of Time Periods by Mutual Consent. Time periods for review by the Zoning Board of Appeals, Planning Commission or County Commissioners may be extended by mutual consent of the owner or developer and the Zoning Board of Appeals, Planning Commission or County Commissioners. Any such extension shall stay the running of all subsequent time periods.
- H. Extension of Preliminary Plans. Approved Preliminary Plans or portions thereof on which no Final Plat has been submitted for review and approval shall expire and be of no force or effect two years after approval, except:
  - 1. The filing of a Final Plat and necessary supporting documents pursuant to Section 7.04 shall extend the life of a remaining valid preliminary plan for one year; or
  - 2. If the life of a Preliminary Plan is extended by action of the County Commissioners.

6.03 PUBLIC IMPROVEMENT ENGINEERING PLANS AND SPECIFICATIONS – SUBMISSION AND REVIEW PROCEDURE. Before subdividing any land subject to the requirements of this Code, an owner or developer shall comply with the following public improvement plan and specification submission, review and approval procedure:

- A. Pre-requisites. Approval and continuing validity of a Preliminary Subdivision Plan or, if none is required, a pending final plat;
- B. Submission. Within two years from the approval of a Preliminary Plan, or within one year after the extension of a Preliminary Plan, and prior to approval of a final plat, the owner or developer shall submit three sets of engineering plans and specifications for all public improvements proposed in or necessary to serve lots depicted in an approved Preliminary Plan or proposed final plat or portion thereof, which plans and specifications shall be in the form and include the content required by Section 7.03.
- C. Review and Approval.
  - 1. The public improvement, plans and specifications shall be reviewed and approved or disapproved by the County Engineer.
  - 2. The County Engineer may require the owner or developer to submit such additional data, plans, specifications and materials as may be necessary to completely and accurately determine the extent of compliance or non-compliance with this Code and accepted engineering practices.

#### 6.04 PUBLIC IMPROVEMENT INSTALLATION AND INSPECTION PROCEDURES.

The owner or developer of property desiring to install public improvements in an area depicted on a proposed or approved preliminary plan or approved or proposed final subdivision plat shall perform such installation in accordance with the following procedure:

A. Prerequisites to Installation.

1. For Installations Before Final Plat Approval:

- a. Approval and continuing validity of an approved preliminary plan;
- b. Approval of public improvement engineering plans and specifications for any and all public improvements the installation of which is to be commenced prior to the approval of a final plat;

2. For Installation After Final Plat Approval:

- a. Approval of a final plat (including all prerequisites to final plat approval);
- b. Posting of a Final Plan, Public Improvement Payment, Performance and Workmanship Bond and security therefore and in the amount and form specified in Section 7.05 for all public improvements depicted in, adjacent to or necessary to serve lots or outlots depicted in an area for which final plat approval has been obtained.

B. Inspection. During installation of public improvements, either before or after final plat approval, the owner or developer shall permit inspection by the County Engineer or his Designate. Failure to comply and install or maintain such installations in a manner that permits inspection shall constitute grounds for rejecting or revoking preliminary or final plat approval, forfeiting pledged security and, in addition, shall constitute a violation of this Code.

C. After completion of the installation of public improvements and prior to acceptance thereof, the owner/developer shall file with the County an engineer's certificate stating that all public improvements have been installed as depicted on the approved public improvement engineering plans and specifications.

6.05 FINAL PLAT SUBDIVISION AND REVIEW PROCEDURE. Before subdividing any land, subject to requirements of this Code, an owner or developer shall comply with the following final plat submission, review and approval procedure:

A. Pre-requisites.

1. Approval and continuing validity of a Preliminary Subdivision Plan;
2. Approval of the public improvement plans and specifications for public improvements proposed in, adjacent to or necessary to serve lots or outlots depicted in the area for which final plat approval is sought;
3. Payment of any and all applicable County tap-on fees in any, and
4. Prior to recording the final plat, the posting of any required Final Plat Public Improvement Payment, Performance and Workmanship bond and security; the filing of any required Adjacent Street Substandard Roadway Improvement Guarantees and security; the making of any required Public Land Dedications or cash contribution in lieu thereof, the obtaining and filing with the County of any off-site easements or right-of-way for public improvements serving the site, and the inspection and approval of all installed public improvements by the County engineer.
5. Payment to Menard County of the appropriated following fee, unless such fees were paid at the preliminary plan stage:

|                                          |          |
|------------------------------------------|----------|
| Less than 2 acres                        | \$150.00 |
| At least 2 acres but less than 15 acres  | \$300.00 |
| At least 15 acres but less than 25 acres | \$450.00 |
| 25 Acres or more                         | \$700.00 |

B. Submission. Within two years from the approval of a Preliminary Subdivision Plan or one year from the most recent County Commissioners' action extending the life of an approved Preliminary Plan, the owner or developer shall submit to the Zoning Administrator fifteen (15) copies of a Final Plat, in a form and providing all the information, data and supporting material required by and retaining the design characteristics of the approved Preliminary Plan and public improvements engineering plans and specifications.

C. County Commissioners Review, Referral and Approval or Disapproval. Within thirty (30) days from the submission of a Final Plat and supporting material, the County Commissioners shall review the final plat to determine the extent to which it conforms with the approved Preliminary Plan and approved public improvement plans and specifications and shall further review the supporting material to determine its conformance with the requirements of this code. If the Final Plan substantially conforms with the approved Preliminary Plan and public improvement plans and specifications and if the supporting material meets all

Code requirements, then the County Commissioners shall approve the Final Plat by Resolution within thirty (30) days from the date of its review. The County Commissioners may approve such plats subject to the subsequent posting of Final Plat Payment, Performance and Workmanship Bond; Adjacent Substandard Roadway Improvement Guarantee, and related security documents and reserves. If the Final Plat does not in some way substantially conform with the approved Preliminary Plan or if the supporting material does not conform with all Code requirements, then the County Commissioners within thirty (30) days from the date of its review, shall take one of the following actions:

1. By Resolution, approve the Final Plat;
  2. By Resolution, approve the Final Plat with conditions;
  3. By Resolution, disapprove the Final Plat;
  4. Refer the Final Plat to the Zoning Board of Appeals and/or Planning Commission for legislative public hearing(s), at which time and place the Zoning Board of Appeals and/or Planning Commission shall determine the extent to which the Revised Final Plat conforms or fails to conform with the standards of this Code. The Zoning Board of Appeals and/or Planning Commission shall, after the adjournment of the legislative public hearing, transmit a recommendation on the revised Final Plat to the County Commissioners which shall, by Resolution, approve or disapprove the Plat.
- D. Recording. Within seven days from the date of adoption of a Resolution approving the Final Plat, or within seven days from the date on which the last event referred to this Code or characterized in the Resolution as a prerequisite to recording of the Final Plat occurs, whichever is later, the Zoning Administrator shall record a copy of the Final Plat, a certified copy of the Resolution approving the Final Plat, and any supporting certificates necessary to accomplish the recording in the office of the Recorder of Deeds of Menard County. Costs of recording, publication, costs of any public hearings and mailing costs for courtesy notices shall be paid by the owner/developer before recording.

E. Expedited Final Plat Submission, Review and Approval Procedure – Subdivision with Three Lots or Less.

Notwithstanding the sequential procedure for subdivision plan submission, review and approval specified elsewhere in this Code, an owner or developer meeting the pre-requisites specified in this paragraph may utilize the expedited Final Plat process described herein:

1. Pre-requisites:

- a. A plat that depicts a total of not more than three lots and outlots;
- b. A plat that includes all contiguous property in common ownership or unified control;
- c. The owner has submitted or submitted with the final plat public improvement engineering plans and specifications in the form required by §7.03 for any proposed public improvements or infrastructure.

2. Submission. Any person desiring to utilize the expedited final plat procedure, shall submit the following to the Zoning Administrator:

- a. A written request to waive the preliminary plan and construction drawing, submission, review and approval procedure.
- b. Fifteen (15) copies of the final plat in a form providing all information, data and supporting material required by Section 7.04
- c. Evidence of required State of Illinois Department of Natural Resources consultation.
- d. Payment to Menard County of the following fee:

|                                          |          |
|------------------------------------------|----------|
| Less than 2 acres                        | \$150.00 |
| At least 2 acres but less than 15 acres  | \$300.00 |
| At least 15 acres but less than 25 acres | \$450.00 |
| 25 acres or more                         | \$700.00 |

3. County Commissioners Review, Referral and Approval or Disapproval. Within thirty days from the submission of a final plat under this expedited review and procedure, the County Commissioners shall review the submission to determine the extent to which it conforms with the requirements of this Code. If the material meets all Code requirements then the County Commissioners shall approve the Final Plat by resolution within thirty (30) days from the date of its review. The Commissioners may approve such plats subject to the subsequent posting of a Final Plat Payment, Performance and Workmanship Bond; Adjacent Substandard Roadway Improvement

Guarantee, Public Improvement Engineering Plans and Specifications and related materials, security documents and reserves. If the Final Plat in some way does not conform with all Code requirements, then within thirty (30) days from the date of its review, the County Commissioners shall take one or more of the following actions:

- a. By Resolution, approve the Final Plat;
- b. By Resolution, approve the Final Plat with conditions;
- c. By Resolution, disapprove the Final Plat;
- d. Require the submission of a preliminary plan;
- e. Refer the Final plat to the Zoning Board of Appeals and/or Planning Commission for legislative public hearing, at which time and place the Zoning Board of Appeals and/or Planning Commission shall determine the extent to which the Final Plat conforms with the standards of this Code. The Zoning Board of Appeals and/or Planning Commission shall, not later than 90 days after the adjournment of the legislative public hearing, transmit its recommendation on the Final Plat to the County Commissioners. Within 60 days from the receipt of the Zoning Board of Appeals and/or Planning Commission recommendation with respect to such Final Plat, the County Commissioners shall, by Resolution, approve or disapprove same.

4. Conformance with Other Requirements. Except as provided in this section, the submission, review and approval of public improvement engineering plans and specifications, the recording of Final Plats, the posting of bonds, the payment of fees, the dedication of land, the submission of as-built plans and the release of bonds shall be as provided in this Chapter.

**6.06 PAYMENT, PERFORMANCE AND WORKMANSHIP GUARANTEES.** Either prior to the approval of a final subdivision plat or prior to its recording and within the time framework, if any, specified in the Resolution of approval, the owner/developer shall post, secure and file with the Zoning Administrator a Final Plat Public Improvement Payment, Performance and Workmanship Bond with appropriate evidence of security and shall post, secure and file and Adjacent Substandard Roadway Improvement Guarantee and security in the manner, amount and form described respectively in Sections 7.05 A & B.

**6.07 SUBMISSION OF “AS BUILT PLANS”.** After installation, completion of testing and approval of all public improvements but prior to acceptance for maintenance, the owner shall submit to the County Engineer a complete set of “as built plans” and an engineer’s certificate stating that plan reflects the improvements as actually constructed and that the design and installation of the public improvements meet or exceed the requirements of this Code.

6.08 ACCEPTANCE FOR MAINTENANCE.

- A. Completion of All Public Improvements. After the developer has complied with the preceding requirements and within thirty (30) days after the applicable Road District Commissioner and County Engineer's written recommendation for acceptance, the County Commissioners' shall be resolution, accept for maintenance all public improvements within, adjacent to or serving lots or outlots depicted on a final plat. Until acceptance for maintenance and repair remains with the owner/developer.

6.09 FINAL SECURITY RELEASE.

- A. Final Plat Public Improvement Payment, Performance and Workmanship Bonds. Unless a workmanship claim is submitted to the surety company, escrow agent or insurer of an irrevocable letter of credit, a Final Payment Performance and Workmanship Bond shall expire and the security for the bond may be released one year after the date the County adopts a resolution accepting the public improvements for maintenance.
- B. Adjacent Substandard Roadway Improvement Guarantees and Security. The adjacent substandard roadway improvement guarantee and security shall expire pursuant to Section 7.05B unless the County Engineer has earlier certified completion of improvements to adjacent substandard roadways.

## ARTICLE VII FORM AND CONTENT

### FORM AND CONTENT OVERVIEW

The subdivision process involves the creation of lots and the installation of public improvements. It is essential that the form of the documents used in that process be prepared with the degree of exactitude which will permit purchasers and governmental officials to use and rely on their content. This section of the subdivision ordinance describes the form and required content of the documents required at various steps in the subdivision review and approval process.

#### 7.01 PRELIMINARY PLANS AND SUPPORTING MATERIAL.

- A. General. The owner or developer submitting a Preliminary Plan shall submit all information required by this Section in the form specified. Failure of an owner or developer to provide this information on the form required shall be sufficient grounds for the County to refuse to accept the filing of a Preliminary Plan or to reject the Preliminary Plan at any stage in the review and approval process.
- B. Minimum Area Included in a Preliminary Plan. A Preliminary Plan shall include not less than all contiguous property in common ownership or unified control.
- C. Required Form and Content of a Preliminary Plan and Supporting Documents. Plans, drawings, surveys, maps, schematics, and comparable material shall be submitted in the following form and with the following content:
  - 1. Required Form of a Preliminary Plan. The Preliminary Plan shall be drawn so that clear and legible transparent or contact prints and photostatic (photographic) copies (reproductions) can be made with a minimum size of eleven (11") inches by seventeen (17") inches and maximum size of twenty-four (24") inches by thirty-six (36") inches.
  - 2. Required Content of a Preliminary Plan and Supporting Documents.
    - a. Identification and Description.
      - (i) Name of the Subdivision, not duplicating the name of any other subdivision or planned unit development recorded in Menard County, Illinois;
      - (ii) Legal description of all property included in the Preliminary Plan, including a reference to the Section, Township and Range;

- (iii) Name and address of the owner of record of all the property within the subdivision shown on the Preliminary Plan;
- (iv) Name and address of the engineering firm and the registered professional engineer who prepared the Preliminary Plan or supporting material;
- (v) Graphic (engineering) scale;
- (vi) Source of all topographical data; and
- (vii) Total acreage of the Subdivision shown on the Preliminary Plan;
- (viii) The following notices shall be typed or stamped on the Preliminary Plan:

NOTICE OF APPROVAL OF PRELIMINARY PLAN BY  
MENARD COUNTY, ILLINOIS:

“The Preliminary Plan of the subdivision shown hereon has received approval by the County Commissioners of Menard County, subject to the modifications contained in Appendix A which is attached hereto”.

The County Commissioners of Menard County, Illinois

Date: \_\_\_\_\_, \_\_\_\_\_

By: \_\_\_\_\_, Clerk  
(see Appendix A)

- b. Existing Conditions. A registered Illinois Land Surveyor or registered professional engineer shall prepare graphic presentations of the following, in each case, with a north point designated as true north and a date of preparation indicated on the survey map, drawing, or plan. Unless otherwise noted, the following shall be drawn to an engineering scale not to exceed one hundred (100) feet equals one (1) inch:
  - (i) Boundary line survey map with accurate distances and angles with a permissible error of closure of one (1) in five thousand (5,000) prepared and certified accurate by a registered Illinois Land Surveyor;

- (ii) Topographic map depicting existing contours within the subdivision or planned unit development and the area within one hundred (100) feet thereof at vertical intervals of not more than two (2) feet, except in unusual topographical conditions such vertical intervals may be increased as determined by the County Engineer. Topographic data shall refer to U.S.G.S. datum;
- (iii) Location and perimeter of any area designated as a Flood Hazard Area as defined by the Federal Emergency Management Agency with any indication of the limits of the flood plain and floodway;
- (iv) Existing zoning districts within the area encompassed by the Preliminary Plan and the area within one hundred (100) feet thereof;
- (v) Identification, location and dimension, if applicable, of the following located within the area included in the Preliminary Plan and in the area within one hundred (100) feet thereof:
  - a. Rights-of-way;
  - b. Streets;
  - c. Roadways;
  - d. Improved drainageways;
  - e. Unimproved drainageways;
  - f. Other drainage easements;
  - g. Walkways;
  - h. Sidewalks;
  - i. Public easements;
  - j. Private easements including any private means of access;
  - k. Railroad right-of-way;
  - l. Section lines;
  - m. Corporate limit lines;
  - n. Parks, schools, and other public lands;
  - o. Buildings and structures to remain;
  - p. Buildings and structures to be removed.
- (vi) Identification, location and size of sanitary sewers, storm sewers, drainage culverts catch basins and sanitary and storm sewer manholes located within the area included in the Preliminary Plan, the area within one hundred (100) feet of the perimeter of the area included in the Preliminary Plan or locate elsewhere if such constitutes the nearest

- existing sanitary sewer, storm sewer, drainage culvert, catch basin, inlet, sanitary sewer manhole or storm sewer manhole serving the area included in the Preliminary Plan;
- (vii) Identification, location of watermain, including all valves and hydrants and any other underground utilities located within the area included in the Preliminary Plan, the area within one hundred (100) feet of the perimeter of the area included in the Preliminary Plan, or located elsewhere if such constitutes the nearest existing water main, valve or hydrant or other underground utility serving the area included in the Preliminary Plan;
  - (viii) Location of and reference to location of existing monuments or survey markers used in preparation and within the boundary of the boundary line survey map and bench marks;
  - (ix) Location map drawn at a scale not less than one thousand (1000) feet to one (1) inch; showing the area boundary by the nearest streets, but not less than one-half (1/2) mile beyond the boundaries of the area included in the Preliminary Plan.
  - (x) If applicable, data indicating that the soil within the area included in the Preliminary Plan is suitable for the absorption of septic tank effluent without the contamination of any water supply or creating unsanitary conditions. This data shall be obtained by making not less than one (1) percolation test on each lot, but in no event less than one (1) test per acre, in a manner prescribed by the Menard County Health Department and the Illinois Environment Protection Agency.
- c. Surveys, Maps, Plan, and Drawings of Proposed Conditions. A Registered Professional Engineer shall prepare and certify as accurate – to the degree of accuracy specified – surveys, maps, plans, and drawings depicting the proposed arrangement of the area included in the Preliminary Plan indicating each of the following and drawn to an engineering scale not to exceed one hundred (100) feet equals one (1) inch:
- (i) Identification, location, and dimensions of any of the following required of proposed:
    - a. Rights-of-way;

- b. Interior streets, exterior streets, and exterior roadways with approximate elevations, proposed gradients, and typical cross-sections;
  - c. Street and roadway names, not duplicative of or confusingly similar to the name of any street heretofore used in Menard County, Illinois or their environs, unless the street in and extension of, or in line with a previously named street, in which event such name shall be used;
  - d. Pedestrian-ways, sidewalks, walkways;
  - e. Public and private easements, including any proposed private means of access;
  - f. Lots and outlots;
  - g. Minimum front yard setbacks;
  - h. Railroad crossings and right-of-ways;
  - i. Bridges;
  - j. Areas, if any, intended to be dedicated or reserved for non-residential purposes;
- (ii) Identification, location, and size of any of the following required or proposed:
- a. Water mains, and
  - b. Street lights and standards;
- (iii) identification, location, and typical cross-section of any of the following required or proposed in the area included in the Preliminary Plan:
- a. Improved drainage ways;
  - b. Unimproved drainage ways;
  - c. Storm drains; and
  - d. Storm water detention and/or retention areas;
- (iv) Identification, location and, if applicable, direction of flow of any of the following required or proposed in the Preliminary Plan:
- a. Sanitary sewers;
  - b. Storm sewers;
  - c. Sanitary and/or storm sewer manholes;
- (v) Direction of storm water run-off from each lot and outlot proposed or required in the area included in the Preliminary Plan;

- (vi) Topographic map of all flood route areas depicting proposed contours at vertical intervals of not more than two (2) feet;
  - (vii) Erosion control plan for the period from the initiation of development to completion of development of the subdivision.
- d. Engineer's Certification. The Preliminary Plan shall include the following representations and warranties from the Illinois Registered Professional Engineer preparing the plan:
- (i) The undersigned represents and warrants the Menard County that the Preliminary Plan for \_\_\_\_\_ Subdivision is in a form that is in accordance with the requirements of the Menard County Subdivision Code; that the proposed design is consistent with the requirements of the code and that the proposed public improvements and designs meet or exceed the requirements of the Code.

\_\_\_\_\_  
Name of the Illinois  
Registered Professional  
Engineer preparing the plan

(See Exhibit A)

#### 7.03 PUBLIC IMPROVEMENT ENGINEERING PLANS AND SPECIFICATIONS.

- A. General. The owner or developer submitting public improvement engineering plans and specifications shall submit all the information required by this Section in the form specified. Failure of an owner or developer to provide this information in the form required shall be sufficient grounds for the County to refuse to accept the filing of public improvement engineering plans and specifications, to reject the plans and specifications at any stage in the review and approval process, to reject a Final Plat depicting lots or outlots served by such public improvements.
- B. Minimum Material to be Submitted. Engineering plans and specifications shall be submitted for all public improvements proposed in or necessary to serve lots depicted in an approved Preliminary Plan or portion thereof. Such materials shall include, without limitation, plans, profiles, quantity standard details, and special details drawn in sufficient detail and supported with sufficient data to make possible a complete and accurate determination of the extent of compliance or

non-compliance with the County's subdivision public improvement design standards and sufficient to permit construction and installation of the proposed improvements without additional or supporting engineering data.

- C. Required Form and Content of Public Improvement Engineering Plans and Specifications. Public improvement engineering plans, specifications drawings, schematics and comparable material shall be submitted in the following form and content:
1. Required Form of Public Improvement Engineering Plans and Specifications. Public improvement engineering plans and specifications, drawings, schematics and comparable material shall be drawn with drawing pencil or transparent abelene or tracing cloth or with waterproof drawing ink or mylar from which clear and legible transparent or contact prints and photostatic copies can be made, with a minimum size of eleven (11) inches by seventeen (17) inches and a maximum size of twenty-four (24) inches by thirty-six (36) inches.
  2. Required Content of Public Improvements, Engineering Plans, and Specifications.
    - a. Identification and Description. The public improvement engineering plans and specifications required by this Code shall include a Title Sheet containing the following information:
      - (i) The name of the proposed subdivision within which or for which such public improvements are proposed;
      - (ii) The name and address of the developer;
      - (iii) The name, address, and telephone number of the engineering firm preparing any part of the engineering plans and specifications and an indication of the part of the plans that such firm prepared;
      - (iv) Seal of the Professional Engineer preparing all or any portion of the engineering plans and specifications certifying that the materials so prepared conform with all applicable codes and ordinances of Menard County except as specifically noted as requested variation or exemption;
    - b. Materials Required. A registered professional engineer shall prepare and certify plans showing and depicting the following:
      - (i) Standard details – typical cross-sections of streets, trenches, and curb and gutter and sidewalks;

- (ii) Any specially constructed items pertaining to the project, including private easements of access;
- (iii) Standard details – sanitary and storm sewer details;
- (iv) Standard details – water main construction details;
- (v) Sanitary sewer plan and profile sheets;
- (vi) Storm sewer plan and profile sheets;
- (vii) Drainage way plan and profile sheets;
- (viii) Water main in overall plan;
- (ix) Sanitary, storm sewer, and drainage way overall plan;
- (x) Street and sidewalk plan and profile sheets;
- (xi) Street and access easement cross-section sheets – on fifty (50) foot centers;
- (xii) Drainage way cross-section sheets – on fifty (50) foot centers;
- (xiii) Grading plans of lots and blocks which shall show:
  - a. The finished elevation at four (4) corners of each lot;
  - b. The finished elevation at four corners of the principal building located on each lot. It shall be the responsibility of the owner of each lot to see that his lot is drained in accordance with said grading plan. It shall be unlawful for the owner to construct or allow the construction of any building or structure which is not in conformity with such grading plan; and
  - c. Direction of storm water run-off from each lot and outlot.
- (xiv) A “summary of quantities sheet” listing all coded pay items necessary to construct all public improvements. This sheet is used by the County Engineer to estimate the cost of

installing all public improvements in order to determine the penal amount of bond and security. The coded pay items must be worded exactly as they are in the Standard Specifications for Road and Bridge Construction, Illinois Department of Transportation, latest edition. The coded pay items shall be arranged on the “summary of quantities sheet” with the code number at the extreme left, followed by the pay item, description, unit of measure and total quantity. Any further breakdowns required should be placed to the right of the total quantity.

- (xv) Miscellaneous drawings showing any other special items required by the Subdivision.
- (xvi) Engineer’s Certification. The Public Improvement Engineers Plans and Specifications shall include the following representations and warranties from the Illinois Registered Professional Engineer preparing the plan:
  - a. The undersigned represents and warrants to Menard County that the Public Improvement Engineers Plans and Specifications for \_\_\_\_\_ Subdivision and summary of quantities sheet is in a form that is in accordance with the requirements of the Menard County Subdivision Code; that the proposed design is consistent with the requirements of the code and that the proposed public improvements and designs meet or exceed the requirements of the Code and that the quantities specified are sufficient to construct all public improvements as proposed.

\_\_\_\_\_  
Name of the Illinois  
Registered Professional  
Engineer preparing the plan

(See Exhibit B)

#### 7.04 FINAL SUBDIVISION PLATS AND SUPPORTING MATERIAL.

- A. General. The owner or developer submitting a final plat shall submit all information required by this Section in the form specified. Failure of an owner or developer to provide this information in the form required shall be sufficient grounds for the County to refuse to accept the filing of a Final Plat or to reject the final plat in any stage of the review and approval process.

B. Area Included in a Final Plat.

1. A final plat shall not include any area not included in an approved and then valid preliminary plan unless submitted pursuant to Section 6.05 F.
2. A final plat shall not depict any public improvements or lots served by, which are to be served by, or which under this Code require service by public improvements unless the public improvements engineering plans and specifications for such public improvements have been submitted, reviewed and approved;
3. A final plat shall not depict any lots served by, or which are to be served by, a private water supply or sewerage system without the filing of appropriate sign-off and approval letters from the Menard County Health Department and State of Illinois Environmental Protection Agency.
4. A final plat shall not be submitted for any portion of an approved preliminary plan if the property remaining within the approved preliminary plan, not yet final platted, is less than 5 acres in area, but shall be submitted for all the remaining in such an approved preliminary plan.

C. Required Form and Content of Final Subdivision Plats and Supporting Documents. Final Plats, certificates, and comparable material shall be submitted in the following form and with the following content:

1. Final plats shall be drawn at a scale or not more than one hundred (100) feet to one (1) inch with black waterproof drawing ink on transparent linen, tracing cloth, or mylar from which clear and legible transparent or contact prints and photostatic copies can be made with a minimum dimension of eleven (11) inches by seventeen (17) inches and a maximum dimension of twenty-four (24) inches by thirty-six (36) inches. The County Engineer may, for good causes, waive the maximum size regulations cited hereinabove.
2. Supporting material shall be typed on paper not exceeding eight and one-half (8 ½) inches by eleven (11) inches in size.
3. Identification and Description:
  - a. The name of the subdivision not duplicating the name of any other subdivision, the final plat of which has been recorded in Menard County, Illinois;
  - b. The legal description of all property included in the final plat and including a reference to the Section, Township and Range;

- c. The name and seal of the registered Illinois Land Surveyor who prepared the final plat and the certificate attesting to the accuracy of the survey and the correct location of all monuments shown;
  - d. The scale of the plat, points of the compass, and the total acreage of the property depicted on the final plat;
  - e. Location of all survey monuments and their descriptions;
4. Lot, Outlot, and Public Rights-of-Way: A registered Illinois Land Surveyor shall prepare and certify as accurate and angular and lineal dimensions of all lines, angles, and curvatures necessary to accurately depict the location of the following:
- a. Rights-of-way, including the names of any streets and roadways depicted;
  - b. Public easements, private easements and private means of access;
  - c. Proposed lots of record consecutively numbered and keyed (on a supplemental sheet) to the lot numbering system used on the approved Preliminary Plan;
  - d. Outlots, lettered consecutively and keyed (on a supplemental sheet) to the numbering system used on the approved Preliminary Plan;
  - e. Minimum front yard setbacks;
  - f. Other area dedicated or reserved to the public;
  - g. Railroad rights-of-way
  - h. Boundaries of the subdivision, all of which shall be drawn to meet or exceed the following standards:
    - (i) Error of closure of boundary line survey shall not exceed one (1) foot for each five thousand (5,000) feet or perimeter survey;
    - (ii) Angular error shall not exceed plus or minus twenty (20) seconds;
    - (iii) Lot line dimensions shall be shown in feet and hundredths of a foot;

- (iv) Angles occurring in any lot line between lot corners shall be shown in degrees, minutes and seconds;
  - i. The radii, ARCS, or chords, points of tangency and central angles for all curvilinear streets and radii for rounded corners;
  - j. Field references to:
    - (i) The nearest established street lines and official monuments which shall be accurately described in the plat by location, size, and elevation;
    - (ii) Township Road District and section lines if the same area within the boundary of the final plat or within one hundred (100) feet therefrom, referenced accurately to the lines of the subdivision by distances and angles; and
    - (iii) All monuments placed at all block corners, angle points and at intermediate points installed in such a manner that they may be located by a registered land surveyor.
5. Certificates: The final plat shall be accompanied by the following certificates duly and appropriately executed substantially in the form of the exhibit in Appendix C of this Code:
- a. Owner's Certificate (with notary) C-1
  - b. Surveyor's Certificate C-2
  - c. Drainage acknowledge C-3
  - d. County Clerk's Certificate C-4
  - e. Certificate of the County Engineer C-5
  - f. Certificate of Compliance of the Developer's Engineer:  
The Final Plat shall include the following representations and warranties from the Illinois Registered Professional Engineer preparing the plan:
    - (i) The undersigned represents and warrants to Menard County that the Final Plat for \_\_\_\_\_ Subdivision is on a form that is in accordance with the requirements of the Menard County Subdivision Code; that the proposed design is consistent with

the requirements of the code and that the proposed public improvements and designs meet or exceed the requirements of the Code.

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Name of the Illinois Registered  
Professional Engineer preparing the  
plat (C-6)

7.05 PAYMENT, PERFORMANCE AND WORKMANSHIP GUARANTEES.

A. Final Plat Public Improvement Payment, Performance and Workmanship Bond.

1. Nature of the Obligation. Any owner, developer or subdivider shall submit a Final Plat Public Improvement Payment, Performance and Workmanship Bond obligating the signer(s) to do each of the following;
  - a. Install all public improvements depicted on or in an approved preliminary plan, engineering plans and specifications or final plat in accordance with the approved Public Improvement Engineering plans and specifications;
  - b. Pay a plan review and inspection fees of 2% of the County Engineers estimate of the cost of public improvements;
  - c. Prepare and submit to the County one complete set of plans and specifications showing such required land improvements as actually installed in the manner described in Section 7.06.

In each case within two years following the approval of the final plat by the County Commissioners and prior to acceptance of the improvements for maintenance. In addition, the execution of the subdivider's Final Plat Public Improvement Payment, Performance and Workmanship Bond shall obligate the signer(s) to guarantee the improvements against faulty materials and workmanship for a period of one year following acceptance of the improvements for maintenance by the County Commissioners.

2. Penal Amount of Bond and Security.

- a. Penal Amount. The penal amount of the final plat public improvement payment and performance and workmanship bond shall be the higher of the following:
  - (i) If some or all of the improvements have been installed, inspected, and approved, then one hundred and five percent (105%) of the County Engineer's written estimate of the

cost of installing all public improvements not then installed and inspected, and five percent (5%) of the County Engineer's estimate for all the improvements installed as a retainage until acceptance of the improvements by the County plus five percent (5%) of the County Engineer's estimate for all improvements installed as a one (1) year guarantee for the materials and workmanship of all improvements. Also, the developer must pay all plan review and inspection fees not paid, prepare all as built plans and specifications not then submitted.

- (ii) If none of the improvements have been installed, then one hundred and five percent (105%) of the County Engineer's written estimate of the cost of installing all public improvements, guaranteeing the materials and workmanship of all the improvements. Also, the developer must pay all plan review and inspection fees not paid and prepare as built plans and specifications not then submitted.

b. Security. The final plat public improvement payment, performance and workmanship bond shall be secured in one of the following ways:

- (i) By posting a corporate surety bond with the owner or developer as Principal and an insurance company duly authorized to do business in the State of Illinois as surety in a penal amount not less than that specified in Section 7.05 A 2. The owner or developer shall keep such corporate surety bond in full force and effect until one (1) year after official action by the County Commissioner's accepting the subdivision for maintenance or until such later date as any written claim against the surety by the County is finally resolved.
- (ii) By posting a cash escrow amount in a local bank or savings and loan association in the amount specified in Section 7.05 A 2 as adjusted by any releases authorized pursuant to Section 7.05 A 4.
- (iii) By posting an irrevocable letter of credit in the amount specified in Section 7.05 A 2 from a local bank or savings and loan association naming the County as beneficiary thereof.
- (iv) By posting a corporate surety bond with the contractor for the owner or developer as principal and an insurance

company duly authorized to do business in the State of Illinois as surety in a penal amount equal to the owner's or developer's obligations as specified in Section 7.05 A 2. The contractor for the owner or developer shall keep such corporate surety bond in full force and effect until one (1) year after official action by the County Commissioners accepting the subdivision for maintenance or until such later date as any written claim against the surety by the County is finally resolved.

3. Form of Bond and Security Documents.

- a. The form of the Final Plat Public Improvement Payment, Performance and Workmanship Bond secured by corporate surety is as provided in Exhibit D-1.
- b. The form of the Final Plat Public Improvement Payment, Performance and Workmanship Bond secured by cash escrow is provided in Exhibit D-2.
- c. The form of the Final Plat Public Improvement Payment, Performance and Workmanship Bond secured by an irrevocable letter of credit is as provided in Exhibit D-3.

4. Releases from Escrow Accounts Posted as Security. As installation of public improvements progress, and are inspected and approved by the County Engineer, releases from such escrow accounts, including interest accumulated thereon, may be authorized by the County Engineer in writing, based upon his estimate of the cost for work completed, inspected and approved, provided, however, no release shall be made which would reduce the escrow account to an amount less than 10 percent (10%) of the County Engineer's original estimate of the cost of installing all public improvements, paying all plan review and inspection fees and preparing as-built plans until all public improvements in the subdivision have been accepted for maintenance by the County Commissioners, at which time the escrow account shall be released to an amount of not less than 5 percent (5%) of the County Engineer's original estimate of cost. Funds then remaining in the escrow account may be released one year after official action by County Commissioners accepting the subdivision for maintenance or on such later date as any written claim against the escrow account by the county is finally resolved.

B. Adjacent Substandard Roadway Improvement Guarantee and Security.

1. Nature of the Obligation. Any person subdividing property bordering on one or more roadways is obligated to contribute ½ the cost of improving such roadway or roadways to the standard provided by the Code, the obligation shall endure for ten years from the date of the final plat is recorded unless:
  - a. The developer or subdivider builds the half of the street adjacent to his development in which case the developer shall have on obligation.
2. Guarantee and Security.
  - a. Security. The Adjacent Substandard Roadway Improvement Guarantee shall be secured in one of the following ways:
    - (i) By posting a corporate surety bond with the owner or developer as Principal and an insurance company duly authorized to do business in the State of Illinois as surety in a penal amount not less than that determined by Section 7.05 B.
    - (ii) By posting a cash reserve account with the County.
    - (iii) By posting an irrevocable letter of credit in the amount determined by Section 7.05 B from a local bank or saving and loan association naming the County as beneficiary thereof.
  - b. Form of Guarantee.
    - (i) The form of the Adjacent Substandard Roadway Improvement Guarantee and Security secured by corporate surety is as provided in Exhibit D-4.
    - (ii) The form of the Adjacent Substandard Roadway Improvement Guarantee secured by cash escrow is as provided in Exhibit D-5.
    - (iii) The form of the Adjacent Substandard Roadway Improvement Guarantee and Security secured by an irrevocable letter of credit is as provided in Exhibit D-6.

#### 7.06 AS-BUILT PLANS.

- A. General. After completion, inspection and approval of all public improvements but prior to acceptance of the public improvements for maintenance, the owner, or developer shall submit all information required by this Section in the form specified. Failure of an owner or developer to provide this information in the form required shall be sufficient grounds for the County to refuse to release the subdivider from his or its Final Plat Public Improvement Payment, Performance and Workmanship Bond; Adjacent Substandard Roadway Improvement Guarantee or to release the security or reserve for such bond, bonds or guarantee, and shall constitute a violation of this Code.
- B. Required Form. As built plans shall be drawn to scale with black waterproof drawing ink on transparent linen, tracing cloth or mylar, from which clear and legible transparent of contact prints and photostatic copies can be made with a minimum dimension of eleven (11) inches by seventeen (17) inches and a maximum dimension of twenty-four (24) inches by thirty-six (36) inches. The County Engineer may, for good cause, waive the maximum size regulation cited hereinabove.
- C. Required content. As built plans shall provide the content required for public improvement engineering plans and specifications (specified in Section 7.03) but shall accurately depict the plans, profiles, standard details and special details as actually installed, inspected and approved, rather than as proposed and shall contain an Engineer's certification that the public improvements as actually built and installed meet or exceed the requirements of this Code. (See Exhibit E)

With the submission of as built plans, the owner or developer shall submit a Road Commissioner's Certificate (See Exhibit F) for any Land Improvement under the jurisdiction of such Road District.

## ARTICLE VIII DESIGN AND CONSTRUCTION STANDARDS

### DESIGN AND CONSTRUCTION STANDARDS OVERVIEW

This section of the subdivision code describes the standards to which subdivisions in Menard County must be built. It includes requirements related to lot size and configuration, block size and configuration; required right-of-way widths for streets, sidewalks, and easements; required construction standards for streets, sanitary sewers, private sewage disposal systems, public water mains, private water supply systems, storm water run-off, storm water detention and requirements for the dedication or reservation of land and/or the contribution of money for public park and school purposes.

8.01 General/Design and Construction. Subdivisions shall be designed so all lots are buildable and usable under existing zoning regulations and are served by a safe and efficient street access system, a safe and adequate water supply, a safe and environmentally sound method of sanitary waste disposal and a safe and efficient storm water drainage system, each of which meets or exceeds the requirements of this Code, including the latest revision at the time of plan approval of the following publications, promulgated by the Illinois Department of Transportation:

Standard Specification for Road and Bridge Construction  
Highway Standards Manual  
Bureau of Local Roads Administrative Policy Manual  
Design Manual  
Bridge Manual  
Culvert Manual  
Prestressed Manual  
Soils Manual  
Drainage Manual  
Coded Pay Item Book Standard  
Policies and Procedures Manual  
Standards and Specifications for Water and Sewer Construction in Illinois.

8.02 Lots, Blocks, Utility Easements, Access Easements and Outlot/Design. All subdivisions shall be designed as to meet or exceed with the following principals of subdivision planning and design and outlots.

- A. Subdivisions shall consist solely and exclusively of lots, outlots, easements and public rights-of-way.
- B. All proposed lots shall have frontage on a public street or public roadway except lots served by an approved easement of access.

- C. All proposed lots shall meet or exceed the lot size, dimensions, and area requirements of the Menard County Zoning Ordinance for the zoning district in which the proposed lots are located.
- D. Outlots may not be used, developed, built on or improved unless and until platted or resubdivided into one or more lots.
- E. Utility and drainage easements shall be dedicated to the appropriate road districts for use by the district and public, quasi-public or private utility companies as provided herein. Easements shall be dedicated by the subdivider for overhead and/or underground utility services, for sanitary sewers, storm-water drainage and water mains. Such easements shall be at least five (5) feet wide and be dedicated along the rear lot lines of each lot and along such side lot lines as to provide continuity of easement alignment of at least ten (10) feet. Easements at least ten (10) feet wide shall be dedicated by the subdivider along the front lot lines of all lots in a subdivision in order to accommodate the installation and maintenance of utilities. At deflection points in all such easements, if overhead utility lines are planned, additional easements shall be dedicated in order to accommodate pole anchors.
- F. All approved private means of access shall be at locations, widths and built to construction standards sufficient to reasonably permit safe and efficient vehicular and pedestrian access to the lots served, without cost to or burden on the public generally. The responsibility for maintenance (including snow removal) of approved private means of access rests on the owners of the lots served by the easement, not Menard County, not the applicable road district, and not the public generally.
- G. Where residential lots are abutting a principal artery street, “no-access strips” shall be depicted on such lots to prohibit vehicular access directly to such abutting major streets.
- H. In residential subdivisions the minimum lot requirements shall be in accordance with the following:
  - 1. The size, shape, and area of lots where a community water supply and public sanitary sewerage system are to be used shall not be less than the requirements of the Menard County Zoning Code.
  - 2. The size, shape and area of lots where private sewage systems and private wells are permitted shall be not less than the requirements of the Menard County Zoning Code, the Environmental Protection Agency, or the Menard County Health Department whichever imposes the higher standard.

- I. The lot width for lots abutting the terminus of a cul-de-sac shall be measured at the front yard building setback line.
- J. Lots abutting a watercourse, drainage way, channel or stream shall have such additional depth and/or width as required by the County in order to provide acceptable building sites.
- K. The shape of blocks shall be determined by topographical features, the basic street system and traffic patterns, lot depths, and areas designed for public and other non-residential land uses.

8.03 ROADS. The roads in and servicing all subdivisions shall be built to meet or exceed the following design and construction standards:

- A. Design.
  - 1. Adequate vehicular and pedestrian access should be provided to all lots;
  - 2. Road patterns should minimize “out-of-the-way” vehicular traffic patterns;
  - 3. Main roads should be designed to minimize through traffic movements;
  - 4. Road systems should be logical and comprehensible;
  - 5. Systems of road naming should be simple, consistent and understandable;
  - 6. Main systems and land development patterns should not detract from the efficiency of major streets;
  - 7. Elements in the road system should not have to rely on extensive traffic regulation in order to function efficiently and safely;
  - 8. Minor streets should be designed for a relatively low volume of traffic and a relatively low speed limit;
  - 9. Pedestrian-vehicular traffic conflicts should be minimized;
  - 10. The number of street intersections should be minimized;
  - 11. The arrangement of roads should permit economical and practical shapes and sizes of lots;

12. The design of roads should be related to topography from the standpoint of economics, drainage, site distances and scenic view;
13. The vehicle and pedestrian circulation patterns in subdivisions should be compatible with the land use plans adopted by the County;
14. Access points to major streets should be limited to number, given special design criteria and, whenever possible, located where other features are not competing for driver attention;
15. Driveway entrances should be discouraged on major streets in residentially zoned areas;
16. Street jogs with the centerline off-sets of less than one hundred fifty (150) feet shall be avoided;
17. Where the angle of deflection, in horizontal centerlines exceeds one (1) degree, a curve shall be inserted with a radius of not less than that required by the most recent applicable Design Manual, of the State of Illinois Department of Transportation;
18. That not more than two (2) streets intersect at any point and so that the angle of intersection of centerlines is not less than eighty (80) degrees nor more than one hundred (100) degrees.

B. Construction Standards.

1. Right-of-Way Dedication Standards. All streets and roadways proposed within the confines of a subdivision shall be located in dedicated public right-of-way as required by this Section of this Ordinance.
2. Interior Streets. Subdivisions shall be designed so all interior streets are located within dedicated public right-of-ways of the following minimum widths – depending on the street classification.
3. Minimum Public Right-of-Way Dedication Requirements

Necessary Right-of-Way

- a. 100' for the following roads:

Illinois Route 97  
Illinois Route 123

Illinois Route 29  
Greenview Middletown Blacktop (C.H. 1)  
Athens Blacktop (C.H. 3)  
Fancy Prairie Road (C.H. 3)  
Gudgel Road (C.H. 4)  
Neumansville Road (C.H. 6)  
East Oakford Road (C.H. 7)  
North Petersburg Road (C.H. 7)  
Sweetwater Road (C.H. 10)  
Peoria Road (C.H. 10)  
Quarry Road (C.H. 11)  
West Oakford Blacktop (C.H. 12)  
Atterberry Road (C.H. 13)  
South Athens Blacktop (C.H. 14)  
Curtis Blacktop (C.H. 16)  
Altig Bridge Road (C.H. 17)  
Rahman Road  
Spears Road  
Salt Creek Bottom Road (TR 120)  
John Hubly Road  
Levee Road

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

b. 80’ for the following roads:

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

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

- c. 60' for any other street or road in the County which Right-of-Way in each case, shall be centered on the centerline of the abutting roadway or, if none, the property line.
  - d. Cul-de-sac turnarounds. Each cul-de-sac shall have a terminus of nearly circular or rectilinear shape with a minimum diameter of one hundred forty (140) feet, except a temporary cul-de-sac street may have a terminus of a "Y" or "T" type.
  - e. Other. Right-of-way widths of freeways, expressways, and parkways shall be in accord with those designated by Federal, State, or County authorities having jurisdiction, whichever has the greater width and design standard requirements.
- 4. Exterior Streets. Subdivisions shall be designed so that the subdivider provides not less than one-half (1/2) of the right-of-way dedication required measured from the centerline of the existing exterior street according to the requirements for an interior street of comparable classification.
  - 5. Supplemental Dedication. Where the street design requirements of this Ordinance require the provision of turning lanes, turning radii, center medians, traffic control devices or other installations which cannot be installed within the right-of-way otherwise required by this Ordinance without the elimination of or conflict between such features and other public improvements, the subdivider shall dedicate such additional right-of-way as is necessary to accommodate all such improvements.
  - 6. Grading. All trees that cannot be saved, boulders and similar objects in the street right-of-way shall be removed.
  - 7. All streets shall be graded to their full width, including side slopes and the sub-grade of the areas to be paved.
  - 8. All excavation under the street pavement shall be back-filled with granular material approved by the County Engineer.
  - 9. Pavement width and strength. All streets shall be improved with roadway pavements to an overall width in accordance with the following minimum dimensions:

Pavement Width  
(between back of curbs or outer  
edges of roadway pavement)

| <u>Type of Street</u> | <u>Pavement Width</u> |
|-----------------------|-----------------------|
| Minor Rural           | 20 feet               |
| Minor Urban           | 24 feet               |
| Major Rural           | 30 feet               |
| Major Urban           | 34 feet               |

Other. In accordance with Federal, State, County or local requirements.

Roadway pavements in cul-de-sac turn-arounds shall have a minimum diameter, measured from the edge of pavement to edge of pavement of one hundred ten (110) feet. Roadway pavements in “Y” or “T” type or other type of turnarounds shall be as approved by the County Engineer.

10. Roadway pavements shall be installed in accordance with County standards and specification. The minimum roadway pavement specifications shall be as follow:
  - a. Compacted sub-base in accordance with specifications set forth by the County Engineer;
  - b. Aggregate Surface Course Type B having a compacted thickness of not less than eight (8) inches shall be constructed not less than two (2) feet wider than the pavement surface;
  - c. In residential subdivisions, where lots are twenty-two thousand five hundred (22,500) square feet or larger in area, a bituminous surface (Class A-3) installed in accordance with Standard Specifications for Road and Bridge Construction, Illinois Department of Transportation, latest edition, shall be required. All required grading, drainage, surfacing and culvert installations shall be done prior to the first application of prime coat, bituminous seal coat and aggregate surface course. A second application shall be applied the following year. No roadways will be considered for acceptance until after the second application of bituminous seal coat. In all other subdivisions the minimum roadway pavement

specifications shall be a two (2) inch minimum thickness bituminous plant mix (Class B) surface in accordance with Standard Specifications for Road and Bridge Construction, Illinois Department of Transportation, latest edition.

11. Curb or curb and gutter roadway pavement edging shall be in accordance with standards approved by the County Engineer and shall be installed in accordance with Standard Specifications for Road and Bridge Construction, Illinois Department of Transportation, latest edition.
12. All streets in the subdivision which are not improved with curb or curb and gutter roadway pavement edging shall be paralleled by a side-strip (shoulder) on each side of such streets. Such side-strip shall be five (5) feet wide and shall be constructed of compacted earth for "A-3" surfaced streets and "Aggregate Surface Course, Type B" having compacted shoulder base of 4 inches of gravel for Bituminous Plant Mix (Class B) surfaced streets.
13. Street signs shall be installed by the subdivider in accordance with Section 2-4.16 of the Manual on Uniform Traffic Control Devices for Streets and Highways, Illinois Department of Transportation, latest edition. The cost of such signs shall be included in the Subdivision Performance Bond as required by Section 7.05 A 2 of the Ordinance.
14. Any and all street lighting shall be installed on private property in easements to the Utility Company providing power.
15. A maximum of one (1) driveway shall be permitted to serve one (1) lot or combination of lots under common ownership or unified control. Shared driveways in the A-Agricultural, RR Rural Residential and B-2 Highway Business District are encouraged.

8.04 Sidewalks/Pedestrian Ways. General. Paved sidewalks shall be installed in accordance with the standards and specifications cited in this Code on at least one side of all streets in residential subdivisions containing lots twelve thousand (12,000) square feet or less in lot area and on both sides of all streets in subdivisions zoned B-1 Downtown Business District.

- A. Design. When sidewalks are installed they shall be designed in such a manner as to do and accomplish the following:
  1. Sidewalks shall be not less than four (4) feet in width.

2. Sidewalks shall be located within dedicated street right-of-way, shall be roughly parallel to the street, and the edge of sidewalks adjacent to the property line shall be placed at least one (1) foot distance from the property line.
  3. Right-Of-Way Dedication Standards. All sidewalks shall be installed within dedicated public right-of-ways.
- B. Construction Standards. All sidewalks shall be constructed and installed in a manner meeting or exceeding the requirements, standards, and specifications in Standard Specifications for Road and Bridge Construction, Illinois Department of Transportation, latest edition. Sidewalks shall be of portland cement concrete with a minimum thickness of four (4) inches, except at all driveways and in all business or manufacturing subdivisions sidewalks shall have a minimum thickness of six (6) inches.

8.05 Water Supply. The water supply and distribution system shall be built to meet or exceed the following design and construction standards.

- A. Design.
1. The water supply and distribution system shall provide each lot with safe and adequate supply of water for domestic use.
  2. Community distribution systems shall be looped and otherwise designed to facilitate uniform pressure and provide adequate fire flow.
  3. Community distribution systems shall be sized and located to provide an adequate source of water to abutting property.
  4. All water mains shall be located in dedicated right-of-way or public easements of sufficient width to permit open cut installation and maintenance.
- B. Construction Standards.
1. If a community water supply and distribution system is installed, the installation thereof shall be in accordance with the standards of the Illinois Environmental Protection Agency and shall accomplish the following:
    - a. provide an individual service stub line to a point not less than two (2) feet inside the property line of each lot or proposed lot;

- b. provide standard fire hydrants spaced not more than 400' apart.
2. If individual wells (non-community water supply) are installed in any subdivision, the installation thereof shall be in accordance with the Illinois Water Well Construction Code; and the Illinois Water Well Pump Installation Code.

#### 8.06 Sanitary Waste Disposal.

##### A. Design.

1. The sanitary waste disposal system shall provide each lot with a safe and adequate method of transport, treatment and disposal of human waste.
2. A public sanitary service, if one is installed, shall be created of a location and depth which can reasonably serve the proposed subdivision and provide an adequate outfall to upstream abutting property.
3. All sanitary sewers shall be installed in a dedicated right-of-way or public easement of sufficient width to permit open cut installation and maintenance.

##### B. Construction Standards.

1. If a public sanitary sewerage system is installed in a subdivision it should comply with the latest standards of the Illinois Environmental Protection Agency.
2. If an individual sewage disposal system is installed to serve a lot in a subdivision it shall be in conformance with the standards and requirements of the Menard County Health Department.
3. Minimum Construction Standards.
  - a. Sanitary sewers shall be sized to accept the following peak design flows:

Domestic: Four hundred (400) gallons per day per capita for lateral sewers. Two hundred fifty (250) gallons per day per capita for trunk sewers

Commercial and/or Industrial: Ten thousand (10,000) gallons per acre per day for lateral sewers. Seven thousand (7,000) gallons per acre per day for trunk sewers

Or such specific flow known for the type of facilities served.

4. In all residential subdivisions, sewer infiltration/inflow shall be added to the flows referred to hereinabove at the rate of three hundred (300) gallons per inch diameter per acre per day unless a viable alternative can be offered that is acceptable to the County Engineer.
5. The gradient of the sewer shall be designed to provide a desirable minimum velocity of two and five-tenths (2.5) feet per second but not less than two (2.0) feet per second where higher velocity is not feasible. Maximum velocity shall not exceed eight (8) feet per second.
6. Minimum pipe diameters shall be eight (8) inches for main lines and six (6) inches for house services.
7. The basis of design for all sanitary sewers shall accompany the plans. Calculations shall be submitted to show that such sewers have sufficient hydraulic capacity.
8. Manholes shall be provided at the end of each line; at all changes in the grade, size, or alignment; at all sewer intersections; and a distance not greater than four hundred (400) feet. A drop manhole shall be provided for a sanitary sewer entering a manhole where its invert elevation is twenty-four (24) inches above the manhole invert. Minimum diameter of manholes shall be four (4) feet.
9. Sanitary sewers eighteen (18) inches in diameter and smaller crossing streams or located in the stream embankments shall be cast iron or ductile iron. For larger diameter pipe other material may be used as approved by the County Engineer. All sewers crossing streams or located in stream embankments or located close to the top of embankments shall have a sufficient cover so as to not interfere with the future improvements of the stream channel.
10. At least one (1) pipe length of the main line sewer shall be provided between the locations of two (2) consecutive tees or wyes in the main line.

11. Where a subdivision by necessity, design, or both requires a pump station and force main, provisions shall be made for outages, emergency overflows, or bypasses. This may be accomplished by providing either emergency pumping capabilities or enough storage facilities to handle at least twenty-four (24) hours of anticipated flows. The objective of such provisions is to prevent the discharge of raw sewage into any waters or public or private property.

8.07 Storm Water Drainage/Detention and Flood Hazard Protection. All subdivisions shall be built to meet or exceed the following design and construction standards.

- A. All lots in a proposed subdivision upon which buildings are to be constructed shall be reasonably safe from flooding. If any part of a proposed subdivision lies within an area delineated as a Special Flood Hazard Area, the design of such subdivision shall:
  1. Be consistent with the need to minimize flood damage within the Special Flood Hazard Area;
  2. Provide for all public utilities and facilities, such as sewer, gas, electrical, and water systems to be located and constructed so as to minimize or eliminate flood damage;
  3. Provide adequate drainage to reduce exposure to flood damage and flood hazards.
- B. The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on Engineering Insurance Rate Map for the unincorporated portion of the County, by the Federal Emergency Management Agency, which map delineates "Special Flood Hazard Areas". Larger floods may occur or the flood height may be increased beyond the base flood elevation by man-made or natural causes. This Ordinance does not imply that development either inside or outside of those areas designated as "Special Flood Hazard Areas" will be free from flooding or flood damage. This Ordinance not create liability on the part of the County or any officer or employee thereof for any flood damage that results from reliance on this Ordinance or any administrative decision made lawfully thereunder.
- C. The subdivision shall make adequate provision for storm or floodwater runoff channels or basins.
- D. The storm water drainage system shall be separate and independent of any sanitary sewer or collection tile system.

- E. Storm sewers, where required, shall be designed by the Rational Method or any other reasonable method as approved by the County Engineer and a copy of design computations shall be submitted along with plans.
- F. Underground and/or surface storm water drainage systems shall be installed to service the entire subdivision.
- G. Curb inlets shall be provided so that surface water is not carried across, over, or around any street intersection, nor for a distance or more than six hundred (600) feet in the gutter (where a curb and gutter roadway pavement edging is provided). When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point.
- H. The subdivision shall be required by this Ordinance to carry away by pipe or open ditch any spring or surface water that may exist either previously to, or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible or in public easements of width sufficient to permit open cut installation and maintenance, and shall be constructed in accordance with the construction standards and specifications approved by the County Engineer.
- I. Accessibility to Existing Storm Sewers.
  - 1. Where an existing storm sewer is accessible, the subdivider shall install storm sewer facilities, or if not outlets are within a reasonable distance, adequate provision shall be made for the disposal of storm waters, subject to the specifications of the County Engineer.
  - 2. If a connection to an existing storm sewer will be provided eventually as determined by the County Engineer, the subdivider shall make arrangements for future storm water disposal by an existing storm sewer system at the time the Final Plat receives approval by the County Commissioners. Provisions for such connection shall be incorporated by inclusion in the performance bond required for the Final Plat of the subdivision.
- J. Accommodation of Upstream Drainage Areas. A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The County Engineer shall approve the necessary size of the facility, based on the provisions of the construction Standards and

Specifications assuming conditions of maximum density of development permitted by the Menard County Zoning Ordinance within the watershed.

1. Underground and/or surface storm water drainage systems shall be installed to service the entire subdivision. Inlets, catch basins, or open drainage ways shall be connected to an adequate outfall.
2. Surface storm water drainage systems for subdivisions where the streets are not improved with curb and gutter shall consist of one (1) ditch on each side of the street pavement. Such ditches shall be a minimum of eighteen (18) inches deep with minimum side slopes to be provided at a ratio of three (3) to one (1). Culverts of the types and sizes as approved by the County Engineer shall be installed by the subdivider at locations where roadways cross over open drainage ways. Galvanized steel, or equivalent, culverts twenty-four (24) feet long with a minimum diameter of fifteen (15) inches shall be installed along open drainage ways in street or thoroughfare rights-of-way at locations where existing or future private driveways to each lot cross over such open drainage ways. Roof drains shall not drain to a storm sewer drainage system and exterior downspouts shall not be tied into a sewage disposal system. All underground tile crossing a public right-of-way shall have sealed joints.

- K. Protection of Downstream Drainage Areas. Detention, retention, or other methods of controlling the volume, velocity and direction of runoff shall be installed to protect downstream property owners from erosion or other damage to crop land, surface water drainage ways, and underground tile systems.

#### 8.08 Design and Construction Standards for Erosion and Sedimentation Control.

- A. Subdivisions shall not be approved which propose lots with buildable areas with slopes greater than 33-1/3% from horizontal without particular provisions for erosion control.
- B. All subdivisions shall be designed and constructed to control erosion and sedimentation to assure that sediment is not transported from the site by a storm event of ten (10) year frequency or less, and that the following principals shall be applicable to all development activities in the area to be subdivided.
1. Development should be related to the topography and soils of the site so as to create the least potential for erosion. Areas of steep slopes where high cuts and fills may be required should be avoided

wherever possible and natural contours should be followed as closely as possible.

2. Natural vegetation should be retained and protected wherever possible. Areas immediately adjacent to natural watercourses should be left undisturbed wherever possible.
3. The smallest practical area of land should be exposed for the shortest practical time during development.
4. Sediment, basins, debris basins, desilting basins, or silt traps or filters should be installed and maintained to remove sediment from run-off water from land undergoing development.
5. The selection of erosion and sedimentation control measures should be based on assessment of the probable frequency of climatic and other events likely to contribute to erosion, and on evaluation of the risks, costs and benefits involved.
6. In the design of erosion control facilities and practices, aesthetics and the requirements of continuing maintenance should be considered.
7. Provision should be made to accommodate the increased runoff caused by changed soil and surface conditions during and after development. Drainage ways should be designed so that their final gradients and the resultant velocities of discharges will not create additional erosion, and should be protected against erosion and sedimentation during development.
8. Permanent vegetation and structures should be installed as soon as practical during development.

#### 8.09 Other Utilities.

- A. All utility lines in a proposed subdivision must be placed within a dedicated right-of-way or public easement.
- B. No ditches, drains, track, rails, poles, wires, pipe line or other equipment of any public utility company, municipal corporation or other public or private corporation, association or person shall be located, placed or constructed upon, under or along any highway, or upon any district road, without first obtaining the written consent of the appropriate highway authority.

- C. A plan showing all proposed utilities must be approved along with all construction plans for the proposed subdivision.

#### 8.10 Oversizing.

The County may require the oversizing of utilities to serve further development. The cost of oversizing shall be born by the subdivider with that cost reimbursed by the County or through private rebate agreements or tap-on fees.

## ARTICLE IX

### 9.01 PUBLIC LAND DEDICATION AND/OR RESERVATION REQUIREMENTS

- A. General. Residential subdivisions increase the burden on public parks and schools. Subdividers should appropriately bear a portion of the cost of such facilities.
- B. Parkland. Any proposed subdivision of residential land containing 20 or more dwelling units (in all phases) shall, at the discretion of the County Commissioners, either:
1. dedicate land for public park purposes;
  2. pay a fee in lieu of parkland dedication, or;
  3. some combination of 1 and 2.

The parkland dedication requirement is based on:

1. a determination that there should be approximately  $\frac{1}{2}$  of 1% of an acre (225 square feet) of parkland per person;
2. an average family size of 2.5 people/dwelling unit for a per dwelling unit equivalent of 565 square feet of parkland/dwelling unit.

The fee in lieu requirement is based on an average land value, after development, of \$10,000/acre (\$.23/square feet) making the ordinary per dwelling unit fee in lieu of \$130.00

Parkland dedication or the payment of a fee in lieu shall be made or paid at final platting.

- C. Schools. Any subdivision proposing more than 250 dwelling units shall make provisions for the reservation of a public school site. The subdivider shall designate on the preliminary plan and final plat that such land is reserved for such use. The subdivider shall offer to sell such land to the school district in which it is located for an amount equal to the fair market value of such land after development. If such land is not acquired or arrangements made for acquisition by a school board within one (1) year after the date of recordation of the final plat for the subdivision, such land may thereafter be used by the owner for any lawful use and may be resubdivided in the manner required by this code to facilitate sale and/or alternative use.

## ARTICLE X

### 10.01 COMPLAINTS AND PENALTIES FOR VIOLATIONS

- A. Complaints. In case any land is subdivided in violation of this Code, or any other violation of this code occurs, any person may file a written complaint with the Zoning Administrator stating fully the causes and basis thereof. After investigation and if satisfied that a violation in fact exists, the Zoning Administrator, with the assistance of the Menard County States Attorney, may institute any appropriate action of proceeding to:
1. Prevent the unlawful subdivision or conveyance of property;
  2. Prevent the use or occupancy of any land unlawfully subdivided;
  3. Restrain, correct or abate the violation;
  4. Restrain any action taken in reliance on the violation;
  5. Allege a violation of the Code and seek the imposition of the penalties provided herein.
- B. Penalties. Any person found guilty of violating, disobeying, omitting, neglecting, or refusing to comply with, or resisting or opposing the investigation or enforcement of any of the provisions of this Code, upon conviction thereof, shall be guilty of a petty offense and shall be punished by a fine of not less than one hundred (\$100.00) dollars nor more than five hundred (\$500.00) dollars. A separate and distinct offense shall be regarded as committed each day the violation remains uncorrected.

ENGINEER'S CERTIFICATION

STATE OF ILLINOIS       )  
                                          ) ss  
COUNTY OF MENARD     )

The undersigned represents and warrants to Menard County, Illinois that the Preliminary Plan for \_\_\_\_\_ Subdivision is in a form that is in accordance with the requirements of the Menard County Subdivision Code; that the proposed design is consistent with the requirements of the code and that the proposed public improvements and designs meet or exceed the requirements of the Code.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Name of the Illinois Registered  
Professional Engineer preparing  
the plan

ENGINEER'S CERTIFICATION

STATE OF ILLINOIS       )  
                                          ) ss  
COUNTY OF MENARD     )

The undersigned represents and warrants to Menard County, Illinois that the Public Improvement Engineers Plans and Specifications for \_\_\_\_\_  
\_\_\_\_\_ Subdivision and summary of quantities sheet is in a form that is in accordance with the requirements of the Menard County Subdivision Code; that the proposed design is consistent with the requirements of the Code and that the proposed public improvements and designs meet or exceed the requirements of the Code and that the quantities specified are sufficient to construct all public improvements as proposed.

DATED: \_\_\_\_\_.

\_\_\_\_\_  
Name of the Illinois Registered Professional Engineer preparing the plan

OWNER'S CERTIFICATE

STATE OF ILLINOIS       )  
                                      )ss  
COUNTY OF MENARD     )

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, hereby certify that we are the owners of all the premises embodied in the attached Plat of \_\_\_\_\_ Subdivision to Menard County, Illinois, and that we have caused said plat to be made and that it is a true and correct plat of \_\_\_\_\_ Subdivision to Menard County, Illinois as laid off into lots and streets by \_\_\_\_\_ Registered Illinois Land Surveyor Number \_\_\_\_\_; and that we, the undersigned, hereby dedicate to the \_\_\_\_\_ Road District, Menard County, Illinois and set apart for the use of the general public forever all of the streets and thoroughfares as indicated and shown on said Plat; and we further dedicated easements within the rights-of-way of such streets and thoroughfares to the applicable public utility companies for those utility installations that are permitted by this and other ordinances and codes of the County to be installed in street or thoroughfare rights-of-way.

IN WITNESS WHEREOF, w have hereunto set our hands and affixed our seals this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_(SEAL)

NOTARY CERTIFICATE

STATE OF ILLINOIS       )  
                                      )ss  
COUNTY OF MENARD     )

I, the undersigned, a Notary Public in and for said County and State aforesaid, do hereby certify that \_\_\_\_\_ is (are) personally known to me to be the same person (s) whose name (s) is (are) subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that \_\_\_he\_\_\_ signed, sealed, and delivered the said instrument as his/her/their free and voluntary act for the uses and purposes therein set forth, including the release and waiver of Homestead, and also including the dedication of all streets and highways to the use of the general public forever, and including the grant of certain general utility easements to the applicable public utility companies.

Given under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires:

(SEAL)

SURVEYOR'S CERTIFICATE

STATE OF ILLINOIS       )  
                                      )ss  
COUNTY OF MENARD     )

I, \_\_\_\_\_, Registered Illinois Land Surveyor No. \_\_\_\_\_,  
do hereby certify that I have surveyed in accordance with the laws and usages of the State  
of Illinois, and with the laws of Menard County, Illinois, for \_\_\_\_\_  
the following described property, to-wit:

I further certify that I have subdivided the same into \_\_\_\_\_ lots and streets as shown on  
the attached plat.

Iron pipes (rod-pins) identify all lot corners as shown on said plat and all measurements  
are given in feet and decimals thereof. All streets and drives and easements designated  
on said plat are intended for public use.

Said Subdivision is to be known as \_\_\_\_\_,  
Menard County, Illinois.

I further certify that the foregoing plat accompanying this certificate correctly represents  
the said premises as subdivided.

I further certify that (said subdivision lies within)(no portion of said subdivision lies  
within) 500 feet of any surface drain or water course serving a tributary are of 640 acres  
of more.

Name of Firm of Surveyor: \_\_\_\_\_ Registered Land Surveyor No.: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Address  
\_\_\_\_\_

Date: \_\_\_\_\_

DRAINAGE ACKNOWLEDGEMENT

\_\_\_\_\_, Registered Professional  
Engineer, and \_\_\_\_\_,  
being the owner(s) of the premises heretofore platted by \_\_\_\_\_,  
Registered Illinois Land Surveyor No. \_\_\_\_\_ to be and become \_\_\_\_\_  
\_\_\_\_\_ to Menard

County, Illinois, do hereby acknowledge that to the best of their knowledge and belief,  
the drainage of surface waters will not be changed by the construction of said Subdivision  
or any part thereof; or that if such surface water drainage will be changed, reasonable  
provisions have been made for collection and diversion of such surface waters into public  
areas or drains which the owner has a right to use and that such surface waters will be  
planned in accordance with generally accepted engineering practices so as to reduce the  
likelihood of damage to the adjoining property because of the construction of said  
Subdivision.

I further acknowledge that all portions of Lots \_\_\_\_\_ are  
within the Special Flood Hazard Area, as defined by the Federal Emergency Management  
Agency.

\_\_\_\_\_  
Registered Professional Engineer

Owner(s):  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

COUNTY CLERK'S CERTIFICATE

STATE OF ILLINOIS       )  
                                          )ss  
COUNTY OF MENARD     )

I, \_\_\_\_\_ County Clerk of Menard County, State of Illinois, do hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, there were no delinquent general taxes, unpaid special assessments, or delinquent special assessments against the tract of land shown on the plat attached to this certificate and described in the Certificate of the Surveyor attached hereto and to said plat.

\_\_\_\_\_  
County Clerk, Menard County, Illinois

(SEAL OF SAID COUNTY)

COUNTY ENGINEER CERTIFICATE

STATE OF ILLINOIS        )  
                                          )ss  
COUNTY OF MENARD     )

I, \_\_\_\_\_, County Engineer of Menard County, Illinois, hereby certify that the land improvements under my jurisdiction described in the annexed plat and the plans and specifications therefor meet the minimum requirements of said county.

Dated at \_\_\_\_\_, Menard County, Illinois this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
County Engineer

CERTIFICATE OF COMPLIANCE OF THE DEVELOPER’S ENGINEER

STATE OF ILLINOIS        )  
                                          )ss.  
COUNTY OF MENARD     )

The undersigned represents and warrants to Menard County that the Final Plat for

\_\_\_\_\_ Subdivision is on a form that is in accordance with the requirements of the Menard County Subdivision Code; that the proposed design is consistent with the requirements of the Code and that the proposed public improvements and designs meet or exceed the requirements of the Code.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Name of the Illinois Registered  
Professional Engineer preparing  
the plat

PAYMENT, PERFORMANCE AND WORKMANSHIP BOND  
SECURED BY CORPORATE SURETY

KNOW ALL MEN BY THESE PRESENTS, that \_\_\_\_\_  
(owner, subdivider or developer of the property) hereinafter called the Principal, and  
\_\_\_\_\_ (Surety) is/are held and firmly bound unto **MENARD**  
**COUNTY**, hereinafter called the Obligee, in the penal sum of \$ \_\_\_\_\_  
(amount of bond) lawful money of the United States, for which principal hereby binds

\_\_\_\_\_  
(himself/herself/itself/themselves) and (his/hers/theirs/or its)  
heirs executors, administrators, successors and assigns, jointly and severally.

Sealed and dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at  
\_\_\_\_\_, Menard County, Illinois.

WHEREAS, a Petition has heretofore been filed with the Obligee for the  
acceptance of a tract of land as a subdivision under the name and title of  
\_\_\_\_\_ (name of subdivision),  
Menard County, Illinois, per plat of \_\_\_\_\_  
(name of Registered Land Surveyor) Registered Illinois Land Surveyor No. \_\_\_\_\_,  
consisting of \_\_\_\_\_ (number of lots) lots and streets, dated \_\_\_\_\_  
(date of final plat) which Plat has received preliminary approval by Obligee, and which  
Plat will be finalized upon the Principal's meeting the further requirements of Obligee's  
Land Subdivision Code.

The legal description of the property sought to be developed, and for which a final  
plat will be presented, and for which property this Bond is given, is described as follows,  
to-wit:

WHEREAS said Principal and if Principal fails to do so Surety is required by Obligee's ordinances to provide sanitary sewer and water conduits, curb and gutter, street base and surface, sidewalks, storm water conduits, street signs, pay all inspection fees and other costs set forth in said ordinances and provide a complete and accurate set of as built plans, all of which said work is to be done per exact specifications and plans as provided by said ordinances and as heretofore established by the Obligee; and

WHEREAS said Principal(s) and if Principal fails to do so Surety promise(s) and guarantee(s) that all construction on said proposed improvements shall be done in a workmanlike manner and in compliance with the ordinances of the Obligee, and subject at all times to the inspection and approval of said Obligee and its authorized officers and employees, and shall be completed on or before \_\_\_\_\_ (two years after the date of approval of the final subdivision plat) and further guarantee(s) that all damage or liability that is caused or results from the construction, operation or repairs made by the said Principal and Surety to said streets, utility conduits, etc., pursuant to the terms of said plans and specifications, will be repaired and the Obligee herein, its officers or employees saved harmless from any and all claims whatsoever arising from the operations of the Principal for and during the period from the acceptance of this bond by said Obligee and for one year after the completion and acceptance of said Obligee of all matters and things required by said ordinance and herein bonded to be done.

NOW, THEREFORE, the condition of this obligation is such that if the above bonded Principal or if Principal fails to do so Surety shall well and truly keep, do and perform each and every, all and singular, the matters and things in said plans and specifications, the resolution approving the plan or plat, this bond or Obligee's subdivision ordinances required and set forth and specified to be done by said Principal and performed by said Principal at the time and in the manner in said documents specified, or shall pay over, make good, reimburse and save the above-named Obligee harmless from all loss and damaged which said Obligee may sustain by reason of failure or default on the part of said Principal so to do, then this obligation shall be null and void; otherwise this obligation shall remain in full force and effect.

PRINCIPAL:

\_\_\_\_\_  
\_\_\_\_\_

Address of Principal:

\_\_\_\_\_  
\_\_\_\_\_

SURETY:

\_\_\_\_\_  
\_\_\_\_\_

Address of Surety:

\_\_\_\_\_  
\_\_\_\_\_

PAYMENT, PERFORMANCE AND WORKMANSHIP BOND  
SECURED BY CASH ESCROW

KNOW ALL MEN BY THESE PRESENTS, that \_\_\_\_\_  
(owner, subdivider or developer or the property) hereinafter called the Principal, is/are  
held and firmly bound unto **MENARD COUNTY**, hereinafter called the Obligee, in the  
penal sum of \$ \_\_\_\_\_ (amount of bond) lawful money of the  
United States, for which principal hereby binds \_\_\_\_\_  
(himself/herself/itself/themselves) and (his/hers/theirs/or its) heirs executors,  
administrators, successors and assigns, jointly and severally.

Sealed and dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_,  
at \_\_\_\_\_, Menard County, Illinois.

WHEREAS, a Petition has heretofore been filed with the Obligee for the  
acceptance of a tract of land as a subdivision under the name and title of \_\_\_\_\_  
(name of subdivision), Menard County, Illinois, per plat of \_\_\_\_\_  
(name of Registered Land Surveyor) Registered Illinois Land Surveyor No. \_\_\_\_\_,  
consisting of \_\_\_\_\_ (number of lots) lots and streets, dated \_\_\_\_\_  
(date of final plat) which Plat has received preliminary approval by Obligee, and which  
Plat will be finalized upon the Principal's meeting the further requirements of Obligee's  
Land Subdivision Code.

The legal description of the property sought to be developed, and for which a final  
plat will be presented, and for which property this Bond is given, is described as follows,  
to-wit:

WHEREAS said Principal is required by Obligee's ordinances to provide sanitary sewer and water conduits, curb and gutter, street base and surface, sidewalks, storm water conduits, street signs, pay all inspection fees and other costs set forth in said ordinances and provide a complete and accurate set of as built plans, all of which said work is to be done per exact specifications and plans as provided by said ordinances and as heretofore established by the Obligee; and

WHEREAS said Principal(s) promise(s) and guarantee(s) that all construction on said proposed improvements shall be done in a workmanlike manner and in compliance with the ordinances of the Obligee, and subject at all times to the inspection and approval of said Obligee and its authorized officers and employees, and shall be completed on or before \_\_\_\_\_ (two years after the date of approval of the final subdivision plat) and further guarantee (s) that all damage or liability that is caused or results from the construction, operation or repairs made by the said Principal to said streets, utility conduits, etc., pursuant to the terms of said plans and specifications, will be repaired and the Obligee herein, its officers or employees saved harmless from any and all claims whatsoever arising from the operations of the Principal for and during the period from the acceptance of this bond by said Obligee and for one year after the completion and acceptance by said Obligee of all matters and things required by said ordinance and herein bonded to be done.

NOW, THEREFORE, the condition of this obligation is such that if the above bonded Principal shall well and truly keep, do and perform each and every, all and singular, the matters and things in said plans and specifications, the resolution approving the plan or plat, this bond or Obligee's subdivision ordinances required and set forth and specified to be done by said Principal and performance by said Principal at the time and in the manner in said documents specified, or shall pay over, make good, reimburse and save the above-named Obligee harmless from all loss and damaged which said Obligee may sustain by reason of failure or default on the part of said Principal so to do, then this obligation shall be null and void; otherwise this obligation shall remain in full force and effect.

PRINCIPAL:

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Address of Principal:

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ESCROW RECEIPT  
PAYMENT, PERFORMANCE AND WORKMANSHIP BOND

The undersigned bank or savings and loan association by its duly authorized officers and agents, acknowledges and certifies to \_\_\_\_\_ as Owner (s), Subdivider, Developer, or Principal and to the \_\_\_\_\_, Menard County, Illinois, hereinafter referred to as the Obligee, effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ as follows:

1. That it maintains a regular office for the transaction of its business in Menard County, Illinois.
2. That it has received and now holds in escrow, pursuant to the terms hereof, the sum of \$ \_\_\_\_\_ received from the Owner (s).
3. That this escrow account has been established by the owner(s) as security on said Public Improvement Payment, Performance and Workmanship Bond for \_\_\_\_\_ (name of subdivision) as provided in the County's land subdivision code ordinance and shall be held in disbursed in accordance with said Bond, and Ordinances and as follows:
  - (a) The account, plus interest earned thereon, shall be held by the undersigned, conditioned upon performance by the Owner on his/her/its or their Payment, Performance and Workmanship Bond furnished to Menard County for the improvements required as shown on the Final Plat of the above mentioned Subdivision, the preparation of as-built plans and the payment of inspection and testing fees.
  - (b) All withdrawals of the principal from the account shall be made subject to the release of Menard County by the County Engineer, and the same may be paid as work progresses and is completed, subject also to the said Engineer's approval.
  - (c) At or at any time after the expiration of the two-year performance period specified in said Bond and upon certification by the County Engineer that the principal has failed to perform in accordance with the terms and requirements of said Bond or the applicable Ordinance, which said certification shall contain an enumeration of such failures and deficiencies, all funds remaining on deposit or such portion thereof as the Engineer deems necessary to complete, repair or replace the public improvements within the subdivision or portions thereof, prepare such as-built plans, pay such inspection and testing fees and take or perform any other actions necessary to guarantee that the development will conform in every respect with its approved Final Plat and the County's applicable codes, ordinances and requirements shall be paid over to the County.

(d) Upon the completion of the improvements and total approval and final acceptance for maintenance of all subdivision improvements by Menard County, ten percent (10%) shall remain upon deposit in the escrow account as a workmanship guarantee until expiration of one year after such approval and acceptance or until such later date as any written claim by the County against the escrow account is finally resolved.

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Attest:

\_\_\_\_\_

Its: \_\_\_\_\_

PAYMENT, PERFORMANCE AND WORKMANSHIP BOND  
SECURED BY IRREVOCABLE LETTER OF CREDIT

KNOW ALL MEN BY THESE PRESENTS, that \_\_\_\_\_  
(owner, subdivider, or developer of the property) hereinafter called the Principal, is/are  
held and firmly bound unto **MENARD COUNTY**, hereinafter called the Obligee, in the  
penal sum of \$ \_\_\_\_\_ (amount of bond) lawful money of the  
United States, for which principal hereby binds \_\_\_\_\_  
(himself/herself/itself/themselves) and (his/hers/theirs/or its) heirs executors,  
administrators, successors and assigns, jointly and severally.

Sealed and dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at  
\_\_\_\_\_, Menard County, Illinois.

WHEREAS, a Petition has heretofore been filed with the Obligee for the  
acceptance of a tract of land as a subdivision under the name and title of  
\_\_\_\_\_ (name of subdivision), Menard  
County, Illinois, per plat of \_\_\_\_\_ (name of Registered  
Land Surveyor) Registered Illinois Land Surveyor No. \_\_\_\_\_, consisting of  
\_\_\_\_\_ (number of lots) Lots and streets, dated \_\_\_\_\_ (date of  
final plat) which Plat has received preliminary approval by Obligee, and which Plat will  
be finalized upon the Principal's meeting the further requirements of Obligee's Land  
Subdivision Code.

The legal description of the property sought to be developed and for which a final  
plat or plan will be presented, and for which property this Bond is given, is described as  
follows, to wit:

WHEREAS the Principal is required by Obligee's ordinances to provide sanitary sewer and water conduits, curb and gutter, street base and surface, sidewalks, storm water conduits, street signs, pay all inspection fees and other costs set forth in said ordinances and provide a complete and accurate set of as built plans, all of which said work is to be done per exact specifications and plans as provided by said ordinances and as heretofore established by the Obligee; and

WHEREAS said Principal (s) promise(s) and guarantee(s) that all construction on said proposed improvements shall be done in a workmanlike manner and in compliance with the ordinances of the Obligee, and its authorized officers and employees, and shall be completed on or before \_\_\_\_\_ (two years after the date of approval of the final subdivision plat) and further guarantee(s) that all damage or liability that is caused or results from the construction, operation or repairs made by the said Principal to said streets, utility conduits, etc., pursuant to the terms of said plans and specifications, will be repaired and the Obligee herein, its officers or employees saved harmless from any and all claims whatsoever arising from the operations of the Principal for and during the period from the operations of the Principal for and during the period from the acceptance of this bond by said Obligee and for one year after the completion and acceptance by said Obligee of all matters and things required by said ordinance and herein bonded to be done.

NOW, THEREFORE, the condition of this obligation is such that if the above bonded Principal shall well truly keep, do perform each and every, all and singular, the matters and things in said plans and specifications, the resolution approving the plan or plat, this bond or Obligee's subdivision ordinances required and set forth and specified to be done by said Principal and performed by said Principal at the time and in the manner in said documents specified, or shall pay over, make good, reimburse and save the above-named Obligee harmless from all loss and damaged which said Obligee may sustain by reason of failure or default on the part of said Principal so to do, then this obligation shall be null and void; otherwise this obligation shall remain in full force and effect.

PRINCIPAL:

\_\_\_\_\_  
\_\_\_\_\_

Address of Principal:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IRREVOCABLE LETTER OF CREDIT

THE \_\_\_\_\_  
(name of financial institution)

TO: The County Clerk of Menard County

We hereby authorize you to draw from our financial institution up to an aggregate amount of \_\_\_\_\_ (\$ \_\_\_\_\_) United States Dollars (amount of security required) from the account of \_\_\_\_\_ (name of owner, subdivider, developer or principal) in connection with \_\_\_\_\_ (name of subdivision).

This Letter of Credit is available to you upon your presentation of a request for payment, accompanied by: a signed statement by the County Engineer that owner has failed to pay for the public improvements proposed in \_\_\_\_\_ Subdivision in accordance with the County's Subdivision Code and the applicable Payment, Performance and Workmanship Bond dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

We hereby agree to honor each draft drawn under and in compliance with the terms of this letter, if and when duly presented at this office in \_\_\_\_\_, Illinois, until the expiration of the time period required by Code or until such later date as any written claim by the County against the owner or his (hers, its or their) financial institution is finally resolved.

By: \_\_\_\_\_

Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

Its: \_\_\_\_\_

ADJACENT SUBSTANDARD ROADWAY IMPROVEMENT GUARANTEE  
SECURED BY CORPORATE SURETY

KNOW ALL MEN BY THESE PRESENTS, that \_\_\_\_\_  
(owner, subdivider or developer of the property) hereinafter called the Principal, and  
\_\_\_\_\_ (Surety) is/are held and firmly bound unto the  
\_\_\_\_\_ hereinafter called the Oblige, in the penal sum  
of \$ \_\_\_\_\_ (amount of bond) lawful money of the United States,  
for which principal hereby binds (himself/herself/itself/themselves) and (his/hers/theirs/or  
its) heirs executors, administrators, successors and assigns, jointly and severally.

Sealed and dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_,  
at \_\_\_\_\_, Menard County, Illinois.

WHEREAS, a Petition has heretofore been filed with the Oblige for the  
acceptance of a tract of land as a subdivision under the name and title of  
\_\_\_\_\_ (name of subdivision), Menard County,  
Illinois, per plat of \_\_\_\_\_ (name of Registered  
Land Surveyor) Registered Illinois Land Surveyor No. \_\_\_\_\_,  
consisting of \_\_\_\_\_ (number of lots) lots and streets, dated  
\_\_\_\_\_, (date of final plat) which Plat has received  
preliminary approval by Oblige's Planning Commission and governing authority and  
which Plat will be finalized upon the Principal's meeting the further requirements of  
Oblige's Land Subdivision Code.

The legal description of the property sought to be developed, and for which a final  
plat will be presented, and for which property this Bond is given, is described as follows,  
to-wit:

WHEREAS said Principal or if Principal fails to do so Surety is required by ordinance of the Obligee to contribute one-half of the cost of improving any and all substandard roadway or roadways abutting or bordering on said subdivision; and

WHEREAS the \_\_\_\_\_ Subdivision borders and abuts portions of the following substandard roadways:

and

WHEREAS the undersigned promises and guarantees to make such a contribution upon receipt of a Certificated of Completion signed by the Obligee's Engineer certifying that one or more of the above-listed adjacent substandard roadways has been improved to standards required by Obligee's Subdivision code.

WHEREAS the undersigned has secured this obligation by posting a cash escrow in the amount of \_\_\_\_\_ (\$ \_\_\_\_\_).

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that if the undersigned contributes ½ the cost of improving any such adjacent substandard roadways which are improved in accordance with the subdivision code, this obligation shall be null and void. Otherwise, the same shall remain in full force and effect.

In the event that one or more of such adjacent substandard roadways are improved to meet or exceed all applicable standards and that improvement is completed and Principal is notified at the address listed below in writing of that completion, and fails to make the contribution described in this Guarantee within 60 days from the date of mailing, the Obligee may utilize all or such portion of the cash escrow established as security for this guarantee plus accumulated interest thereon for the purpose of making the required contribution.

PRINCIPAL:

SURETY:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Address of Principal:

Address of Surety:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ADJACENT SUBSTANDARD ROADWAY IMPROVEMENT GUARANTEE  
SECURED BY CASH ESCROW

KNOW ALL MEN BY THESE PRESENTS, that \_\_\_\_\_  
(owner, subdivider, or developer of the property) hereinafter called the Principal, is/are  
held and firmly bound unto the \_\_\_\_\_, hereinafter called the  
Obligee, in the penal sum of \$ \_\_\_\_\_ (amount of bond) lawful money  
of the United States, for which principal hereby binds (himself/herself/itself/themselves)  
and (his/hers/theirs/or its) heirs executors, administrator, successors and assigns, jointly  
and severally.

Sealed and dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_, Menard County, Illinois.

WHEREAS, a Petition has heretofore been filed with the Obligee for the  
acceptance of a tract of land as a subdivision under the name and title of  
\_\_\_\_\_ (name of subdivision), Menard County,  
Illinois, per plat of \_\_\_\_\_ (name of  
Registered Land Surveyor) Registered Illinois Land Surveyor No. \_\_\_\_\_,  
consisting of \_\_\_\_\_ (number of lots) lots and streets, dated  
\_\_\_\_\_, (date of final plat) which Plat has received  
preliminary approval by Obligee's Planning Commission and governing authority and  
which Plat will be finalized upon the Principal's meeting the further requirements of  
Obligee's Land Subdivision Code.

The legal description of the property sought to be developed, and for which a final  
plat will be presented, and for which property this Bond is given, is described as follows,  
to-wit:

WHEREAS said Principal is required by ordinance of the Obligee to contribute one-half of the cost of improving any and all sub-standard roadway or roadways abutting or bordering on said subdivision; and

WHEREAS the \_\_\_\_\_  
Subdivision borders and abuts portions of the following substandard roadways:

and

WHEREAS the undersigned promises and guarantees to make such a contribution upon receipt of a Certificate of Completion signed by the Obligee's Engineer certifying that one or more of the above-listed adjacent substandard roadways has been improved to standards required by Obligee's Subdivision Code.

WHEREAS the undersigned has secured this obligation by posting a cash escrow in the amount of \_\_\_\_\_ (\$\_\_\_\_\_).

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that if the undersigned contributes ½ the cost of improving any such adjacent substandard roadways which are improved in accordance with the subdivision code, this obligation shall be null and void. Otherwise, the same shall remain in full force and effect.

In the event that one or more of such adjacent substandard roadways are improved to meet to exceed all applicable standards and that improvement is completed and Principal is notified at the address listed below in writing of that completion, and fails to make the contribution described in this Guarantee within 60 days from the date of mailing, the Obligee may utilize all or such portion of the cash escrow established as security for this guarantee plus accumulated interest thereon for the purpose of making the required contribution.

PRINCIPAL:

\_\_\_\_\_  
\_\_\_\_\_

Address of Principal:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ESCROW RECEIPT  
ADJACENT SUBSTANDARD ROADWAY IMPROVEMENT GUARANTEE

The undersigned bank or savings and loan association by its duly authorized officers and agents, acknowledges and certifies to \_\_\_\_\_ as Owner(s), Subdivider, Developer or Principal and to the \_\_\_\_\_ of \_\_\_\_\_, Menard County, Illinois, hereinafter, referred to as the Municipality or Obligee, effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ as follows:

1. That it maintains a regular office for the transaction of its business in Menard County, Illinois
2. That it has received and now holds in escrow, pursuant to the terms hereof, the sum of \$ \_\_\_\_\_ received from the Owner(s).
3. That this escrow account has been established by the owner(s) as security on said Adjacent Substandard Roadway Improvement Guarantee for \_\_\_\_\_ (name of subdivision) as provided in the County's land subdivision code ordinance and shall be held and disbursed in accordance with said Bond, said Ordinance, and as follows:
  - (a) The account, plus interest earned thereon, shall be held by the undersigned, conditioned upon performance by the Owner on his/her/its or their Adjacent Substandard Roadway Improvement Guarantee furnished to Menard County for the improvements to \_\_\_\_\_ an adjacent substandard roadway.
  - (b) All withdrawals of the principal from the account shall be made subject to the release of Menard County by the County Engineer, and the same may be paid as work progresses and is completed, subject also to the said Engineer's approval.
  - (c) At or at any time after the expiration of the performance period specified in said Guarantee and upon certification by the County Engineer that the principal has failed to perform in accordance with the terms and requirements of said Guarantee or the applicable Ordinance, which said certification shall contain an enumeration of such failures and deficiencies, all funds remaining on deposit or such portion thereof as the Engineer deems necessary to pay the Obligee's share of the improvement costs.

By: \_\_\_\_\_  
\_\_\_\_\_

Its \_\_\_\_\_

Attest: \_\_\_\_\_

Its \_\_\_\_\_

ADJACENT SUBSTANDARD ROADWAY IMPROVEMENT GUARANTEE  
SECURED BY IRREVOCABLE LETTER OF CREDIT

KNOW ALL MEN BY THESE PRESENTS, that \_\_\_\_\_  
(owner, subdivider or developer of the property) hereinafter called the Principal, is/are  
held and firmly bound unto the \_\_\_\_\_, hereinafter called  
the Obligee, in the penal sum of \$ \_\_\_\_\_ (amount of bond) lawful  
money of the United States, for which principal hereby binds  
(himself/herself/itself/themselves) and (his/hers/theirs/or its) heirs executors,  
administrators, successors and assigns, jointly and severally.

Sealed and dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at  
\_\_\_\_\_, Menard County, Illinois.

WHEREAS, a Petition has heretofore been filed with the Obligee for the  
acceptance of a tract of land as a subdivision under the name and title of  
\_\_\_\_\_ (name of subdivision), Menard County,  
Illinois per plat of \_\_\_\_\_ (name of Registered Land  
Surveyor) Registered Illinois Land Surveyor No. \_\_\_\_\_, consisting of  
\_\_\_\_\_ (number of lots) lots and streets, dated \_\_\_\_\_, (date of  
final plat) which Plat has received preliminary approval by Obligee's Planning  
Commission and governing authority and which Plat will be finalized upon the  
Principal's meeting the further requirements of Obligee's Land Subdivision Code.

The legal description of the property sought to be developed, and for which a final  
plat will be presented, and for which property this Bond is given, is described as follows,  
to-wit:

WHEREAS said Principal is required by ordinance of the Obligee to contribute one-half of the cost of improving any and all sub-standard roadway or roadways abutting or bordering on said subdivision; and

WHEREAS the \_\_\_\_\_ Subdivision borders and abuts portions of the following substandard roadways:

and

WHEREAS the undersigned promises and guarantees to make such a contribution upon receipt of a Certificate of Completion signed by the Obligee's Engineer certifying that one or more of the above-listed adjacent substandard roadways has been improved to standards required by Obligee's Subdivision Code.

WHEREAS the undersigned has secured this obligation by posting an Irrevocable Letter of Credit in the amount of \_\_\_\_\_ (\$ \_\_\_\_\_).

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that if the undersigned contributes ½ the cost of improving any such adjacent substandard roadways which are improved in accordance with the subdivision code, this obligation shall be null and void. Otherwise, the same shall remain in full force and effect.

In the event that one or more of such adjacent substandard roadways are improved to meet to exceed all applicable standards and that improvement is completed and Principal is notified at the address listed below in writing of that completion, and fails to make the contribution described in this Guarantee within 60 days from the date of mailing, the Obligee may utilize all or such portion of the cash escrow established as security for this guarantee plus accumulated interest thereon for the purpose of making the required contribution.

PRINCIPAL:

\_\_\_\_\_  
\_\_\_\_\_

Address of Principal:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IRREVOCABLE LETTER OF CREDIT

The \_\_\_\_\_  
(name of financial institution)

TO: The County Clerk of Menard County

We hereby authorize you to draw from our financial institution up to an aggregate amount of \_\_\_\_\_ (\$ \_\_\_\_\_) United States Dollars (amount of security required) from the account of \_\_\_\_\_ (name of owner, subdivider, developer, or principal) in connection with \_\_\_\_\_ (name of subdivision).

This Letter of Credit is available to you upon your presentation of a request for payment, accompanied by: a signed statement by the County Engineer that the owner has failed to pay for the public improvements proposed in \_\_\_\_\_ Subdivision in accordance with the County's Subdivision Code and the applicable Payment, Performance and Workmanship Bond dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

We hereby agree to honor each draft drawn under and in compliance with the terms of this letter, if and when duly presented at this office in \_\_\_\_\_, Illinois, until the expiration of the time period required by Code or until such later date as any written claim by the County against the owner or his (hers, its or their) financial institution is finally resolved.

By: \_\_\_\_\_

Its \_\_\_\_\_

ATTEST:

\_\_\_\_\_

Its \_\_\_\_\_

CERTIFICATE OF COMPLIANCE OF THE DEVELOPER'S ENGINEER

STATE OF ILLINOIS       )  
                                          )SS  
COUNTY OF MENARD     )

The undersigned represents and warrants to Menard County that all public improvements  
in \_\_\_\_\_ Subdivision  
have been installed to meet or exceed the requirements of the Code.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Name of Illinois Registered  
Professional Engineer preparing the  
plat

ROAD COMMISSIONER CERTIFICATE

STATE OF ILLINOIS       )  
                                          )SS  
COUNTY OF MENARD     )

I, \_\_\_\_\_, Road Commissioner of \_\_\_\_\_  
District, Menard County, Illinois, do hereby certify that the land improvements under my  
jurisdiction described in the annexed plat and the plans and specifications therefore meet  
the minimum requirements of said Road District.

Dated at \_\_\_\_\_, Menard County, Illinois this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Road Commissioner

# **Control of Stormwater Drainage and Detention, Soil Erosion, and Sediment Control within the Unincorporated Areas of Menard County, Illinois**



## **Supplemental Ordinance to the Menard County Zoning Ordinance**

January 1, 2025

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## SECTION I

# AUTHORITY AND PURPOSE; OTHER RELEVANT PERMITTING; APPLICABILITY; EXEMPTIONS; EXCEPTIONS; AND SEPARABILITY:

### SECTION I.1.0 – AUTHORITY AND PURPOSE:

This ordinance is enacted pursuant to the police powers granted to the Menard County, Illinois by the Illinois State Statutes. The purpose of this ordinance is to diminish threats to public health and safety, protect property, prevent damage to the environment and promote public welfare by guiding, regulating and controlling the design, construction, use and maintenance of any new development or redevelopment or other activity which disturbs or breaks the topsoil or otherwise results in the movement of earth, and/or changes the stormwater drainage pattern and/or stormwater flows from that which would have occurred if the land had been left in its natural state. This stormwater runoff and resulting soil erosion could result in the inundation of damageable properties, the erosion and destabilization of downstream channels, and the pollution of valuable stream and lake resources. This ordinance regulates these activities to minimize adverse impacts. The purpose of this ordinance is also to comply with the General National Pollutant Discharge Elimination System (NPDES) Permit No. ILR40 regulations, the Notice of Intent (NOI) submitted to the IEPA in 2003.

This ordinance is adopted to accomplish the following objectives:

1. To assure that new development or redevelopment does not increase the drainage or flood hazards, or create unstable conditions susceptible to soil erosion;
2. To protect new buildings and major improvements to buildings from flood damage due to increased stormwater runoff and soil erosion;
3. To protect human life and health from the hazards of increased flooding and soil erosion on a watershed basis;

4. To lessen the burden on the taxpayer for flood control projects, repairs to flood damaged public facilities and utilities, correction of channel erosion problems, and flood rescue and relief operations caused by stormwater runoff and soil erosion quantities from new development or re-development;
5. To protect, conserve, and promote the orderly development of land and soil, water, air, animal, and plant resources;
6. To preserve the natural hydrologic and hydraulic functions of watercourses and flood plains and to protect water quality and aquatic habitats;
7. To preserve the natural characteristics of stream corridors to manage flood and stormwater impacts, improve water and groundwater quality, reduce soil erosion, protect aquatic and riparian habitat, maintain quality forest resources, provide recreation opportunities, provide aesthetic benefits, and enhance community and economic development.

### SECTION I.2.0 - OTHER RELEVANT PERMITTING:

Before a Development Permit under this ordinance becomes effective, all required Federal, State, and Local permits will have been officially approved. The acquisition of these permits shall be the sole responsibility of the applicant. These may include but are not limited to Section 404 of the Clean Waters Act, Section 106 of the National Historic Preservation Act, Section 10 of the Rivers and Harbors Act, or permitting required by the Illinois Department of Natural Resources, Office of Water Resources in accordance with the Rivers, Lakes and Streams Act, 615 ILCS, the Soil and Water Conservation Districts Act, 70 ILCS and the National Pollutant Discharge Elimination System Permit (NPDES) thru the Illinois Environmental Protection Agency, Division of Water Pollution Control. Compliance is also required with but not limited to

the Development Code of Menard County including the Subdivision Ordinance.

### **SECTION 1.3.0 - APPLICABILITY:**

This ordinance applies to all new development or redevelopment in the unincorporated areas of Menard County, Illinois. Except as otherwise provided in this ordinance, no person, firm or corporation, public or private, the State of Illinois and its agencies or political subdivisions, the United States of America, and its agencies or political subdivisions, any agent, servant, officer or employee of any of the foregoing which meets the following provisions or is otherwise exempted in this ordinance, shall commence any development activities without first having obtained a Development Permit from the Code Administrator of Menard County, Illinois.

#### **SECTION 1.3.1 NEW DEVELOPMENT:**

Any new development or re-development containing an area ten thousand (10,000) or more square feet of total impervious surface (i.e., streets, roof, patio or parking area or any combination thereof); or

#### **1.3.2 LAND ACTIVITY:**

Any land disturbing activity (i.e., clearing, grading, stripping, excavation, fill, or any combination thereof) that affects an area often thousand (10,000) or more square feet, or that will exceed 100 cubic yards; or

- a) Any land disturbing activity if the activity is within 100 feet of a river, lake, pond, stream, sinkhole, or wetland; and is done in conjunction with sections 1.3.1 or 1.3.2; to
- b) Any land disturbing activity on the sloping side of the slope disturbance line and is in conjunction with sections 1.3.1, or 1.3.2.

### **SECTION 1.4.0 - EXEMPTIONS:**

A Development Permit shall not be required for the following:

- a) Any new development, re-development or other activity falling below the minimum standards as set forth in Section 1.3.0.

- b) The agricultural use of land, including the implementation of conservation measures included in a farm conservation plan approved by the Soil and Water Conservation District, and including the construction of agricultural structures.
- c) The maintenance of any existing stormwater drainage/detention component or structure or any existing soil erosion/sediment control component or structure; including dredging, levee restoration, tree removal or other function which maintains the original design capacities of the above.
- d) The construction of, improvements to or the maintenance of any street, road, highway, or interstate highway performed by any unit of government whose powers grant such authority.

### **SECTION 1.4.1 – NON -EXEMPT:**

A Development Permit is required for these uses but shall not be subject to the provisions of Section 3.0. Stormwater Drainage and Retention.

- a) Any land disturbing activity that is one acre (43,560 S.F.) or less; or development of tracts of land where not more than one single family dwelling is being erected; or, any lots in a new subdivision of land where the lots front and have their sole access on an existing street or roadway.

### **SECTION 1.5.0 - EXCEPTIONS:**

The Subdivision and Land Use Committee may, in accordance with the following procedures, authorize exceptions to any of the requirements and regulations set forth in this ordinance:

- a) That the land is of such shape or size or is affected by such physical conditions or is subject to such title limitations or record, that it is impossible for the applicant to comply with all the requirements of this ordinance;
- b) That the exception is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
- c) That the granting of the exception will not be detrimental to the public welfare, environment, or injurious to other property in the vicinity of the subject's property.

### **SECTION 1.5.1 – APPLICATION REVIEW PROCESS:**

Each application for an exception shall be made to the Code Administrator. The Administrator will review and transmit recommendations to the Subdivision and Land Use Committee, which shall review such recommendations prior to granting or denying the exception.

### **SECTION 1.5.2 – PUBLIC HEARING:**

The Subdivision and Land Use Committee shall hold a public hearing on each application for exception, within thirty (30) days after receiving the application, in the manner by ordinance. Within thirty (30) days after public hearing, the Subdivision and Land Use Committee shall either approve the site Development Permit application with the exceptions and conditions it deems necessary or it shall disapprove such Development Permit application and exception application, or it shall take other such action as appropriate.

### **SECTION 1.6.0 – SEPARABILITY SEVERABILITY:**

The provisions and sections of this ordinance shall be deemed to be separable, and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

### **SECTION 1.7.0 - RESPONSIBILITY:**

The applicant shall not be relieved of responsibility for damage to persons or property otherwise imposed by law, and Menard County, Illinois or its officers or agents will not be made liable for such damage, by

1. The issuance of a Development Permit under this ordinance,
2. Compliance with the provisions of that Development Permit or conditions attached to it by the Code Administrator,
3. Failure of Menard County Officials to observe or recognize hazardous or unsightly conditions,
4. Failure of Menard County Officials to recommend denial or to deny a Development Permit, or
5. Exemptions from Development Permit requirements of this ordinance.

### **SECTION 1.8.0 - NPDES COMPLIANCE:**

New and re-development, that is applicable to this ordinance (per Section 1.3.0) must comply with the NPDES regulations (the General NPDES Permit No. ILR40 and the NOI). NPDES compliance is obtained by adhering to this ordinance, ILR10 permits, the General NPDES for Menard County and the NOI submitted for each individual community and all future steps taken by the individual communities to implement the NOL

### **SECTION 1.8.1 - PUBLIC EDUCATION AND OUTREACH ON STORM WATER IMPACTS:**

In accordance with the General NPDES Permit No. ILR40 and the NOI, Menard County will comply and implement activities as outlined in the Public Education and Outreach on Storm Water Impacts.

### **SECTION 1.8.2 - PUBLIC INVOLVEMENT/PARTICIPATION:**

In accordance with the General NPDES Permit No. ILR40 and the NOI, Menard County will comply and implement activities as outlined in the Public Involvement/Participation.

### **SECTION 1.8.3 - ILLICIT DISCHARGE DETECTION AND ELIMINATION:**

In accordance with the General NPDES Permit No. ILR40 and the NOI, Menard County will comply and implement activities as outlined in the Illicit Discharge Detection and Elimination.

### **SECTION 1.8.4 - CONSTRUCTION SITE STORM WATER RUNOFF CONTROL:**

In accordance with the General NPDES Permit No. ILR40 and the NOI, Menard County will comply and implement activities as outlined in the Construction Site Storm Water Runoff Control

**SECTION 1.8.5 - POST-  
CONSTRUCTION STORM WATER  
MANAGEMENT IN NEW  
DEVELOPMENT AND  
REDEVELOPMENT:**

In accordance with the General NPDES Permit No. ILR40 and the NOI, Menard County will comply and implement activities as outlined in the Post-construction Storm Water Management in New Development and Redevelopment.

**SECTION 1.8.6 - POLLUTION  
PREVENTION/GOOD  
HOUSEKEEPING:**

In accordance with the General NPDES Permit No. ILR40 and the NOI, Menard County will comply and implement activities as outlined in the Pollution Prevention/Good Housekeeping.

**SECTION 1.9 - INFORMATION  
ACCESSIBILITY TO THE PUBLIC:**

Documents relating to the adherence to this ordinance are available for review by request at City Hall

## SECTION 2.0 – DEFINITIONS

### SECTION 2.0 DEFINITIONS:

For the purposes of this ordinance certain terms are defined and set forth below:

**ADVERSE IMPACTS:** Any negative impact on plant, soil, air, or water resources affecting their beneficial uses including recreation, aesthetics, aquatic habitat, quality, and quantity.

**APPLICANT:** Any person, firm, or governmental agency who executes the necessary forms to produce official approval of a development or permit to carry out construction of a new development or re-development from the Menard County, Illinois.

**BASE FLOOD ELEVATION:** The elevation at all locations delineating the level of flooding resulting from the 100- year frequency flood event, which has one (1) percent chance of occurring in any given year.

**BUILDING PERMIT:** A permit issued by the Menard County, Illinois for the construction, erection or alteration of a structure or building and the related ground and surface preparation prior to and after completion of construction, erection or alteration of a structure or building.

**BYPASS FLOWS:** Stormwater runoff from upstream properties tributary to a property's drainage system but not under its control.

**CERTIFY OR CERTIFICATION:** Formerly attesting that the specific inspections and tests were performed, and that such inspections and tests comply with the applicable requirements of this ordinance.

**CHANNEL:** Any defined river, stream, creek, brook, branch, natural or artificial depression, ponded area, on-stream lake or impoundment, karst area (sinkhole), flowage, slough, ditch, conduit, culvert, gully, ravine, wash or natural or manmade drainage way, which has a definite bed and bank or shoreline, in or into which surface or groundwater flows, either perennially or intermittently.

**CHANNEL MODIFICATION:** Alteration of a channel by changing the physical dimensions or materials of its bed or banks. Channel modification includes damming, riprapping (or other armoring), filling, widening, deepening, straightening, relocating, lining, and significant removal of bottom

or woody rooted vegetation. Channel modification does not include the man-made clearing of debris or removal of trash.

**CLEARING:** Any activity which removes the natural vegetative ground cover.

**COMPENSATORY STORAGE:** An artificially excavated, hydraulically equivalent volume of storage within the floodplain used to balance the loss of natural food storage capacity when fill or structures are placed within the floodplain.

**CONDUIT:** Any channel, pipe, sewer or culvert used for the conveyance or movement of water, whether open or closed.

**CUBIC YARD:** A one (1) yard by (1) yard by one (1) yard amount of material in excavation and or fill.

**DETENTION BASIN:** A facility constructed or modified to provide for the temporary storage of stormwater runoff and the controlled release by gravity of this runoff at a prescribed rate during and after a flood or storm.

**DETENTION TIME:** The amount of time stormwater is held within a detention basin.

**DEVELOPMENT:** Any manmade change to real estate property, including:

1. The division or subdivision of any duly recorded parcel of property;
2. Construction of roads, bridges, or similar projects;
3. Installation of a manufactured home on a site, preparing a site for manufactured home, or installing a travel trailer on a site for more than 180 days per year;
4. Construction of roads, bridges, or similar projects;
5. Redevelopment of a site;
6. Filling, dredging, grading, clearing, excavating, paving or other non-agricultural alterations of a ground surface;
7. Storage of materials or deposit of solid or liquid waste;

8. Any other activity that might alter the magnitude, frequency, direction, or velocity of stormwater flows from a property.

**DRAINAGE PLAN:** A plan, including engineering drawings and supporting calculations, which describes the existing stormwater drainage system and environmental features, including grading, as well as proposed alterations or changes to the drainage system and environment of a property.

**DRY BASIN:** A detention basin designed to drain after temporary storage of stormwater flows and to normally be dry over much of its bottom area.

**EROSION:** The general process whereby soil or earth is moved by rainfall, flowing water, wind, or wave action.

**EXCAVATION:** Any act by which organic matter, earth, sand, gravel, rock, or any other similar material, is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed and shall include the conditions resulting from such actions.

**EXCESS STORMWATER RUNOFF:** The volume and rate of flow of stormwater discharged from a new development or re-development which is or will be in excess of that volume and rate which existed before development or re-development.

**EXISTING GRADE:** The vertical location of the existing ground surface prior to excavation or filling.

**FILL:** Any cut which earth, sand, gravel, rock, or any other material, is deposited, placed, replaced, pushed, dumped, pulled, transported, or moved by man to a new location and shall include the conditions resulting there from.

**FINAL GRADE:** The vertical location of the ground surface after grading work is completed in accordance with the engineering plans.

**FLOOD FRINGE:** That area as designated by the Federal Emergency Management Agency (FEMA) on either side of the floodway. This area is subject to inundation from the base flood but conveys little or no flow.

**FLOOD HAZARD BOUNDARY MAP (FHBM):** A much-generalized map prepared by the Federal Emergency Management Agency (FEMA) which shows only where floodplains are located based on very basic data. FHBM's do not include base flood elevations.

**FLOOD INSURANCE RATE MAP (FIRM):** A map prepared by the Federal Emergency Management Agency (FEMA) that depicts the special flood hazard area (SFHA) within a community. This map includes insurance rate zones and regulatory floodplains and may or may not depict regulatory floodways.

**FLOODPLAIN:** that land adjacent to a body of water with ground surface elevations at or below the base flood or the 100-year frequency flood elevation which is subject to inundation. The floodplain as designated by the Federal Emergency Management Agency (FEMA) is also known as the Special Flood Hazard Area (SFHA). These areas can be found on the (FIRM), Flood Boundary and Floodway Map, or the Flood Hazard Boundary Map (FHBM) of the community. This area is the collective combination of the regulatory floodway and the flood fringe.

**FLOODWAY:** The channel and that portion of the floodplain, including on-stream lakes, adjacent to a stream or watercourse which is needed to store and convey the anticipated existing and future 100-year frequency flood discharge with no more than a 0.1 foot increase in stage due to any loss of flood conveyance or storage and no more than a ten percent (10%) increase in velocities. Floodways are designated by FEMA on some Flood Insurance Rate Maps and Flood Boundary and Floodway Maps. However, there are floodways on all streams whether mapped by FEMA or not.

**GRADING:** The excavation or fill or any combination thereof and shall include the conditions resulting from any excavation or fill.

**HYDROGRAPH:** A graph showing for a given location on a stream or conduit, the flow rate with respect to time.

**HYDROGRAPH METHOD:** This method estimates runoff volume and runoff hydrographs for the point of interest by generating hydrographs for individual sub areas, combining them, and routing them through stream lengths and reservoir structures. Factors such as rainfall amount and distribution, runoff curve number, time of concentration, and travel time are included.

**IMPERVIOUS SURFACE:** That area of property that is covered by materials other than soil and vegetation and that has no intended capacity to absorb water, such as parking lots, driveways,

sidewalks, patios, tennis courts, roofs, and other structures.

**INFILTRATION:** The passage or movement of water into the soil surfaces.

**LOESSAL SOIL:** A sediment, commonly non-stratified and un-consolidated, composed predominately of silt sized particles with accessory clay and sand.

**LOT:** An individual platted parcel in an approved subdivision.

**MAJOR DRAINAGE SYSTEM:** That portion of a drainage system needed to store and convey flows beyond the capacity of the minor drainage system.

**MINOR DRAINAGE SYSTEM:** That portion of a drainage system designed for the convenience of the public. It consists of street gutters, storm sewers, small open channels, and swales and, where manmade, is to be designed to handle the 2-year runoff event.

**MITIGATION:** Mitigation is when the prescribed controls are not sufficient and additional measures are required to offset the development, including those measures necessary to minimize the negative effects which stormwater drainage and development activities might have on the public health, safety and welfare. Examples of mitigation include, but are not limited to compensatory storage, soil erosion and sedimentation control, and channel restoration.

**MODIFIED RATIONAL METHOD:** As described in the Illinois Department of Transportation "Drainage Manual" is based on the principal that the maximum rate of runoff from a given drainage area occurs at that point in time when all parts of the watershed are contributing to the flow. The rainfall generating the peak flow is assumed to be of uniform intensity for the entire watershed with a rainfall duration equal to the time of concentration.

**NATURAL:** Conditions resulting from physical, chemical, and biological processes without intervention by man.

**NATURAL DRAINAGE:** Channels formed in the existing surface topography of the earth prior to changes made by unnatural causes.

**ONE HUNDRED-YEAR EVENT:** A rainfall, runoff, or flood event having a one percent chance of

occurring in any given year. A 24-hour storm duration is assumed unless otherwise noted.

**PARCEL:** All contiguous land in one's ownership.

**PEAK FLOW:** The maximum rate of flow of water at a given point in a channel or conduit.

**PERMITEE:** Any person to whom a building permit is issued.

**PERSON:** Any individual, firm, or corporation, public or private, the State of Illinois and its agencies or political subdivisions, the United States of America, and its agencies or political subdivisions, and any agent, servant, officer, or employee of any of the foregoing.

**POSITIVE DRAINAGE:** Provision for overland paths for all areas of a property including depressional areas that may also be drained by storm sewer.

**PRIME FARMLAND:** Prime farmland is land that is best suited to food, feed, forage, fiber, and oilseed crops. It may be cropland, pasture, woodland, or other land, but it is not urban and built-up land or water areas. It is either used for food or fiber or is available for those uses. The soil qualities, growing season and moisture supply are those needed for a well-managed soil to economically produce a sustained high yield of crops. Prime farmland produces the highest yields with minimum inputs of energy and economic resources, and farming it results in the least damage to the environment.

**PROPERTY:** A parcel of real estate.

**RETENTION BASIN:** A facility designed to completely retain a specified amount of stormwater runoff without release except by means of evaporation, infiltration, emergency bypass or pumping.

**SEDIMENTATION:** The process that deposits soils, debris, and other materials either on other ground surfaces or in bodies of water or stormwater drainage systems.

**SITE:** A parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

**SINKHOLE, (KARST AREAS):** A Sinkhole or Karst topography is a land surface depression or

blind valley which may or may not have surface openings to cavernous underground areas and are the result of water movement through silts and jointed limestone. These conditions make such areas unstable and susceptible to subsidence and surface collapse. Fractures in the limestone may channel runoff water to public or private water supplies, making those sources especially susceptible to groundwater contamination.

**SLOPE DISTURBANCE LINE:** The line which delineates relatively level building areas from areas where slopes exceed 8 percent (8%) and where special precautions must be taken.

**STORMWATER DRAINAGE SYSTEM:** All means, natural and manmade, used for conducting stormwater to, through or from a drainage area to the point of final outlet from a property. The stormwater drainage system includes but is not limited to any of the following: conduits and appurtenance features, canals, channels, ditches, streams, culverts, streets, storm sewers, detention basins, swales, and pumping stations.

**STORMWATER RUNOFF:** The waters derived from melting snow or rain falling within a tributary drainage basin which are in excess of the infiltration capacity of the soils of that basin, which flow over the surface of the ground or are collected in channels or conduits.

**STORM SEWER:** A closed conduit for conveying collected stormwater.

**STREAM:** Any river, creek, brook, branch, flowage, ravine, or natural or man-made drainage way which has a definite bed and banks or shoreline, in or into which surface or groundwater flows, either perennially or intermittently.

**STRIPPING:** Any activity which removes the vegetative surface cover including tree removal, by spraying or clearing, and storage removal of top soil.

**TEN-YEAR EVEN:** A runoff, rainfall, or flood event having a ten percent (10%) chance of occurring in any given year. A 24 hour storm duration is assumed unless otherwise note.

**TIME OF CONCENTRATION:** The elapsed time for stormwater to flow from the most hydraulically remote point in a drainage basin to a particular point of interest in that watershed.

**TRIBUTARY WATERSHED:** All of the land surface area that contributes runoff to a given point.

**TWO-YEAR EVENT:** a runoff rainfall, or flood event having a fifty percent (50%) chance of occurring in any given year. A 24 hour storm duration is assumed unless otherwise noted.

**VACANT:** Land on which there are no structures or only structures which are secondary to the use or maintenance of the land itself.

**WATERSHED:** All land area drained by, or contributing water to, the same stream, creek, ditch, lake, marsh, stormwater facility, groundwater or depressional area.

**WET BASIN:** A detention basin designed to maintain a permanent pool of water after the temporary storage of stormwater runoff.

**WETLANDS:** Wetlands are defined by regulation as "those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions." For general, but no inclusive locations of designated wetlands refer to mapping prepared jointly by the U.S. Department of Interior, Fish and Wildlife Service and the Illinois Department of Natural Resources, Office of Resource Conservation: National Wetlands Inventory Mapping, 1987. The applicant may be required to provide a field investigation by a qualified wetland delineator

## **SECTION 3.0 - STORMWATER DRAINAGE AND DETENTION:**

### **SECTION 3.1.0 - DRAINAGE PLAN SUBMITTAL REQUIREMENTS:**

Each applicant shall submit the following information, to ensure that the provisions of this ordinance are met. The submittal shall include sufficient information to evaluate the environmental characteristics of the property, the potential adverse impacts, and benefits of the development on water resources both on-site and off-site, and the effectiveness of the proposed drainage plan in managing stormwater runoff, and meet the provisions of Section 1.2. The applicant shall certify on the drawings that all clearing, grading, drainage, and construction shall be accomplished in strict conformance with the drainage plan. The following information shall be submitted for both existing and proposed property conditions for all new development or re-development.

### **SECTION 3.1.1 - DRAINAGE PLAN REQUIREMENTS:**

A topographic survey of the property at two-foot (2) contours unless otherwise specified or approved by Menard County. If the mapping is compiled using a digital format and the Global Positioning System (GPS), the applicant will provide both paper and digital copies including GPS points.

### **SECTION 3.1.2 - MAPPING AND DESCRIPTIONS:**

An existing drainage and proposed drainage plan, for the property and one hundred (100) feet surrounding the property at a scale of not more than one hundred (100) feet to one (1) inch and including the following:

1. Property boundary, dimensions, and approximate acreage;
2. Building setback lines;
3. all existing and proposed structures and sizes;
4. Area in square feet of existing and proposed impervious surface;
5. All existing, or proposed easements;
6. All existing, abandoned, or proposed water or monitoring well head locations;
7. All sanitary or combined sewer lines and septic systems;

8. The banks and centerline of streams and channels;
9. Shoreline of lakes, ponds, and detention basins with normal water level elevation;
10. Known farm drains and tiles;
11. Soils classifications;
12. Location, size and slope of stormwater conduits and drainage swales;
13. Depressional storage areas;
14. Detention facilities;
15. Roads, streets, and associated stormwater inlets including finished grades;
16. Base flood elevation, flood fringe, and regulatory floodway;
17. Basis of design for the final drainage network components;
18. A statement giving any applicable engineering assumptions and calculations; a vicinity map showing the relationship of the site to its general surroundings at a scale of not less than two thousand (2,000) feet to (1) inch (1:24,000);
19. Title, scale, north arrow, legend, seal of Licensed Professional Engineer, date and name of person preparing plans;
20. Cross-section data for open channel flow paths and designated overland flow paths;
21. Direction of storm flows;
22. Flow rates and velocities at critical points in the drainage system (may be included in the supporting documentation);
23. A statement by the design engineer of the drainage system's provision for handling events greater than the 100-year, 24-hour runoff (may be included in the supporting documentation);
24. A statement of certification of all drainage plans, calculations, and supporting data by a Licensed Professional Engineer.

### **SECTION 3.1.3 - ENVIRONMENTAL FEATURES:**

A depiction of environmental features of the property and immediate vicinity including the following:

- a) The limits of designated regulatory and non-regulatory and non-regulatory wetland areas;

- b) The location and limits of known sinkholes (karst areas);
- c) Any known designated natural areas, prime farmland; and
- d) Any known proposed environmental mitigation features.

### **SECTION 3.2.0 - MINIMIZATION OF INCREASES IN RUNOFF VOLUMES AND RATES:**

In the selection of a drainage plan for a new development or re-development; the applicant shall evaluate and implement site design features which minimize the increase in runoff volumes and rates from the site. The applicant's drainage plan submittal shall include evaluations of site design features which are consistent with the following hierarchy:

1. Preservation of regulatory floodplains, flood prone and wetland areas;
2. Minimize impervious surfaces on the property, consistent with the needs of the project;
3. Attenuate flows by use of open vegetated swales and natural depressions and preserves the existing natural stream channel;
4. Infiltration of runoff on-site;
5. Provide stormwater retention structures;
6. Provide wet or wetland detention structures;
7. Provide dry detention structures; and
8. Construct storm sewers.

### **SECTION 3.3.0 - WATER QUALITY AND MULTIPLE USES:**

The drainage system should be designed to minimize adverse surface and groundwater quality impacts off-site and on the property itself. Detention basins shall incorporate design features to capture stormwater runoff pollutants. When designers propose wet bottom and wetland type designs, all flows from the development shall be routed through the basin (i.e. low flows shall not be bypassed). When it is not practical or feasible to route all the project's flow to the detention basin, the design of the basin shall compensate for the bypass flow. In cases where detention facilities are practical and the long-term maintenance of such facilities are providing for, detention of stormwater shall be promoted through the property's drainage system to reduce the volume

of stormwater runoff and to reduce the quantity of runoff pollutants.

The drainage system should incorporate multiple uses where practicable. Uses considered compatible with stormwater management include open space, aesthetics, aquatic habitat, recreation (boating, fishing, trails, playing fields), wetlands and water quality mitigation.

Water quality shall adhere to:

1. Illinois Environmental Protection Act - 415 ILCS 5/12, from Ch.111 ½., par IO11 & IO12
2. Illinois Pollution Control Board Rules & Regulation - Title 35: Environmental Protection, Subtitle C: Water Pollution, Chapter I: Pollution Control Board, Part 302 Water Quality Standards; and
3. Illinois Pollution Control Board Rules & Regulations - Title 35: Environmental Protection, Subtitle C: Water Pollution, Chapter I: Pollution Control Board, Part 304 Effluent Standard.

### **SECTION 3.4.0 - DESIGN CRITERIA, STANDARDS, AND METHODS:**

**3.4.1.1 RELEASE RATES:** The drainage system for new developments or redevelopments shall be designed to control the peak rate of discharge from the property for the two year, 24-hour, and 100-year, 24-hour events to discharge rates at or below those which existed prior to development. Additionally, the discharge from a stormwater detention facility shall not cause an increase in flooding or channel instability downstream when considered in aggregate with other developed properties and downstream drainage capacities.

**3.4.1.2 DETENTION BASIN OUTLET DESIGN:** The detention basin outlet control structure shall be designed to account for observed or anticipated downstream tailwater elevations. The tailwater elevations used in the detention model shall be for the storm frequency being routed through the detention basin. An emergency spillway or overflow device shall be provided and set at an elevation equivalent to the 100-year design high water.

A calculation shall be made to determine the water elevation in the detention basin that would result from a 100-year storm with the outflow control structure openings blocked. The discharge rate

flowing through the emergency spillway shall not exceed the 100-year pre-development flow rate. The top of bank for the detention basin shall be set at least one foot above this elevation. The lowest finished floor elevation of adjacent structures shall also be at least one foot above the detention basin top of bank.

### **3.4.1.3 DETENTION STORAGE REQUIREMENTS:** See 3.4.1.0

**3.4.1.1 DRAINAGE SYSTEM DESIGN AND EVALUATION:** The following criteria should be used in evaluating and designing the drainage system. The design will provide capacity to pass the 10-year peak flow rate in the minor drainage system and an overload flow path for flows more than the design capacity.

**3.4.1.2 DESIGN METHODOLOGIES:** Detention basin design shall be calculated using NRCS TR-55 methods. Basins with drainage areas of 10 acres or less may be calculated using the Rational Method as approved by the Illinois Department of Transportation. Other applicable methods, i.e. HEC-1, TR- 20, SWMM, etc. shall be used for large watersheds.

**3.4.1.3 POSITIVE DRAINAGE:** When practical, all developments must be provided an overland flow path that will pass the 100-year, 24-hour event flow at a stage at least one (1) foot below the lowest grade, adjacent to a structure, in the vicinity of the flow path. Street ponding and flow depths shall not exceed curb heights.

**3.4.1.4 RAINFALL:** Unless a continuous simulation approach to drainage system hydrology is used, all design rainfall events shall be based on the Illinois State Water Survey's Bulletin 70. The first quartile point rainfall distribution shall be used for the design and analysis of conveyance systems with critical durations less than or equal to 6 hours. The second quartile distribution shall be used for storms with durations greater than six hours and less than or equal to 12 hours. The third quartile point rainfall distribution shall be used for the design and analysis of detention basins and conveyance system with critical durations greater than 12 and less than or equal to 24 hours. The fourth quartile distribution shall be used in the design and analysis of systems with durations greater than 24 hours. The first, third, and fourth quartile distributions described by Huff are presented in Table 37 of Bulletin 70. Refer to Table 13 of Bulletin 70 for rainfall depth, duration, and frequency. The NRCS Type II distribution may

be used as an alternate to the Huff distributions. The total rainfall value for the design storm shall be adjusted for the "St. Louis Urban Effect" as given in Table 4, Illinois State Water Survey Circular 172.

**3.4.1.5 ANTECEDENT MOISTURE:** Average antecedent moisture conditions shall be assumed when calculating runoff curve numbers for use in the NRCS TR-55 method.

**3.4.1.6 WET DETENTION BASIN DESIGN:** Wet detention basins shall be designed to remove storm water pollutants, to be safe, to be aesthetically pleasing, and as much as feasible to be available for recreational use.

**3.4.1.7 WET BASIN DEPTHS:** Wet basins shall be at least three feet deep, excluding nearshore banks and safety ledges. If fish habitat is to be provided, they shall be at least eight (8) feet deep over twenty-five (25%) percent of the bottom area to prevent winterkill.

**3.4.1.8 WET BASIN SHORELINE SLOPES:** The side slopes of wet basins at the normal pool elevation shall not be steeper than three to one (3 to 1 horizontal to vertical). It is recommended that aquatic vegetation be established around the perimeter to provide protection from shorelines erosion. For basins more than five acres, rip rap shoreline protection shall be provided.

**3.4.1.9 PERMANENT POOL VOLUME:** The permanent pool volume in a wet basin at normal depth shall, at a minimum, be equal to the runoff volume from its watershed for the 2-year, 24-hour event (calculated during dry weather conditions).

**3.4.1.10 WET BASIN INLET AND OUTLET ORIENTATION:** The distance between detention inlets and outlets shall be maximized. Inlets and outlets shall be at opposite ends of the basin providing that the orientation does not create undue hardship based on topography or other natural constraints.

**3.4.1.11 DRY DETENTION BASIN DESIGN:** In addition to the other requirements of this ordinance, dry basins shall be designed to remove stormwater pollutants, to be safe, to be aesthetically pleasing and as much as feasible to be available for multiple uses. Paved low flow channels may be used in a dry basin provided provisions are made to prevent ponding.

**3.4.1.12 DRY BASIN DRAINAGE:** Dry basins shall be designed so that eighty percent (80%) of

their bottom area shall have standing water no longer than seventy-two (72) hours for any runoff event less than the 100-year, 24-hour event. Grading plans shall clearly distinguish the wet portion of the basin bottom. Underdrains directed to the outlet may be used to accomplish this requirement.

**3.4.1.13 VELOCITY DISSIPATION:** Velocity dissipation measures shall be incorporated into dry basin designs to minimize erosion at inlets and outlets and to minimize resuspension of pollutants.

**3.4.1.14 DRY BASIN INLET AND OUTLET ORIENTATION:** Shall be the same as Section 3.4.6.4

**3.4.1.15 EXISTING DEPRESSIONAL AREAS:** Existing depressional storage volume will be maintained and the volume of detention storage provided to meet the requirements of this ordinance shall be in addition to existing storage.

## **SECTION 3.4.2 - DETENTION, STANDARDS, AND METHODS:**

**3.4.2.1 MINIMUM DETENTION OUTLET SIZE:** Where a single pipe outlet orifice plate is to be used to control discharge, it shall have a minimum diameter of twelve (12) inches for larger basins. Smaller basins may install a smaller rectangular or v-notch weir to control discharge. If this minimum orifice size permits release rates greater than those specified in this section, and regional detention is not a practical alternative, outlets, structures such as perforated risers, or flow control orifices shall be used.

**3.4.2.2 DETENTION IN FLOOD PLAINS:** The placement of detention basins within the flood plain is strongly discouraged because of questions about their reliable operation during flood events. However, the stormwater detention requirements of this ordinance may be fulfilled by providing detention storage within flood fringe areas on the project site provided the following provisions are met as well as compliance with Section 1.2.0.

**3.4.2.3 DETENTION IN FLOOD FRINGE AREAS:** The placement of a detention basin in a flood fringe area shall require compensatory storage for 1.5 times the volume below the base flood elevation occupied by the detention basin including any terms. The release from the detention storage provided shall still be controlled consistent with the requirements of this section. The applicant shall demonstrate its operation for all streamflow and flood

plain backwater conditions. Excavations for compensatory storage along watercourses shall be opposite or adjacent to the area occupied by detention. All flood plain storage lost below the existing ten-year flood elevation shall be replaced below the existing ten-year elevation. All flood plain storage lost above the existing ten-year flood elevation shall be replaced above the existing ten-year flood elevation. All compensatory storage excavations shall be constructed to drain freely and openly to the watercourse and comply with Section 1.2.0.

### **3.4.2.4 DETENTION ON PRIME FARMLAND:**

The placement of detention basins shall avoid the utilization of prime farmland. All detention basin construction shall examine potential impacts to adjacent agricultural land and shall address measures that will be implemented to eliminate such impacts and comply with Section 1.2.0.

### **3.4.2.5 DETENTION IN FLOODWAYS:**

Detention basins shall be placed in the floodway only in accordance with Section 3.4.10

**3.4.2.6 ON-STREAM DETENTION:** On-stream detention basins are discouraged but allowable if they provide regional public benefits and if they meet the other provisions of this ordinance with respect to water quality and control of the 100 year 24-hour events from the property. Further criteria are presented in Section 3.5.0 of this ordinance. If on-stream detention is used in watersheds larger than one square mile, the applicant will use hydrographic modeling to demonstrate that the design will not increase the water level for any properties upstream or downstream of the property. Also, impoundment of the stream as part of on-stream detention:

- a) shall not prevent the migration of indigenous fish species, which require access to upstream areas as part of their life cycle, such as for spawning;
- b) shall not cause or contribute to the degradation of water quality or stream aquatic habitat;
- c) shall include a design calling for gradual bank slopes, appropriate bank stabilization measures, and a pre-sedimentation basin;
- d) shall not involve any stream channelization or the filling of wetlands;
- e) shall require the implementation of an effective non-point source management program throughout the upstream watershed which shall include as a minimum: runoff reduction "Best Management Practices" (BMP's) consistent with Section 3.2.0; 2-

year, 24-hour detention/sedimentation basin for all development consistent with Section 3.4.10.4

- f) shall not occur downstream of a wastewater discharge;
- g) shall not contribute to the duration or flood frequency of any adjacent land; and
- h) shall comply with Section 1.2.0.

#### **3.4.2.7 DRAINAGE INTO WETLANDS, RIVERS, STREAMS, LAKES, PONDS, AND DEPRESSIONAL STORAGE AREAS:**

Wetlands, lakes, ponds and depressional storage areas shall be protected from damaging modifications and adverse changes in runoff quality and quantity associated with land developments. In addition to the other requirements of this ordinance, the following requirements shall be met for all developments whose drainage flows into wetlands, rivers, lakes, ponds or depressional storage areas:

#### **3.4.2.8 DETENTION IN WETLANDS, RIVERS, STREAMS, LAKES, PONDS, OR DEPRESSIONAL STORAGE AREAS:**

Existing wetlands, rivers, lakes, ponds or depressional storage areas shall not be modified for the purpose of stormwater detention unless it is demonstrated that the proposed modifications will maintain or improve its habitat and ability to perform beneficial functions and shall comply with Section 1.2.0. Existing storage and release rate characteristics of wetlands, rivers, lakes, ponds or depressional storage areas shall be maintained and the volume of detention storage provided to meet the requirements of this section shall be in addition to this existing storage.

**3.4.2.9 SEDIMENT CONTROL:** The existing wetlands, rivers, lakes, ponds, or depressional storage areas shall be protected during construction and as further regulated in Section 4.0 of this ordinance.

#### **3.4.2.10 ALTERATION OF DRAINAGE PATTERNS:**

Site drainage patterns shall not be altered to substantially decrease or increase the existing area tributary to the wetlands, rivers, lakes, ponds or depressional storage areas.

**3.4.2.11 DETENTION/SEDIMENTATION:** All runoff from the development shall be routed through a preliminary detention/sedimentation basin designed to capture the two-year, 24-hour event and hold it for at least 24 hours, before being discharged to the wetland, river, lake, pond, or depressional storage area. This basin shall be constructed before property grading begins and shall be maintained

throughout the construction process. In addition, the drainage hierarchy defined in Section 3.2 Should be followed to minimize runoff volumes and rates being discharged to the wetland, river, stream, lake, pond, or depressional storage area and as further regulated in and Section 3.4.0 of this ordinance.

**3.4.2.12 LOESSAL SOILS:** Care must be taken to avoid open flow discharges of stormwater over silt (loessal) soils due to high potential for erosion.

**3.4.2.13 SINKHOLES, KARST AREA:** The following requirements apply for new developments or redevelopments where sinkholes are determined to be present:

1. A stormwater detention basin shall not be placed in or over a sinkhole.
2. Stormwater detention basins shall not be located closer than one hundred (100) feet from the rim of a sinkhole.
3. The outflow from a stormwater detention basin, channel, ditch, or any stormwater runoff generated because of a new development or redevelopment shall not empty into or be directed, redirected by any means into or through any sinkhole.
4. If, after the review of the stormwater drainage plan, the Code Administrator may determine that more detailed information is required, a sinkhole evaluation may be required. A sinkhole evaluation which addresses the geologic, engineering, and environmental factors resulting from a new development or redevelopment be performed by a professional with experience and expertise in karst topography, whom shall certify the results of the evaluation. This evaluation shall be the responsibility of the applicant and performed at no cost to the Menard County, Illinois. After a review of this evaluation and with the consultation of the County Soil and Water Conservation District, the Menard County Code Administrator may either approve or disapprove the drainage plan as submitted.
5. Whenever a new sinkhole appears or it becomes apparent that the sinkhole has not yet been identified, it shall be reported to the County Soil and Water Conservation District.
6. Shall comply with Section 1.2.0

### **SECTION 3.4.3 - STREET DETENTION, PARKING LOT DETENTION, AND CULVERT DRAINAGE:**

**3.4.3.1 - STREET DETENTION:** If streets are to be used as part of the minor or major drainage system, ponding depths shall not exceed curb heights and shall not remain flooded for drainage system, ponding depths shall not exceed curb heights and shall not remain flooded for more than eight (8) hours for any event less than or equal to the 100-year, 24-hour event.

**3.4.3.2 - PARKING LOT DETENTION:** The maximum stormwater ponding depth in any parking area shall not exceed six (6) inches for more than four (4) hours.

**3.4.3.3 - CULVERT, ROAD, AND DRIVEWAY CROSSINGS:** Sizing of culvert crossings shall consider entrance and exit losses as well as tailwater conditions on the culvert.

**3.4.3.4 - INFILTRATION PRACTICES:** To effectively reduce runoff volumes, infiltration practices including basins, trenches, and porous pavement should be in hydrologic soil groups "A" and "B" as designated by the U.S.D.A. Natural Resources Conservation Service. Infiltration basins and trenches designed to re-charge groundwater shall not be located within seventy-five (75) feet of a water supply well or building foundation and comply with Section 1.2.0. A sediment settling basin shall be provided to remove coarse sediment from stormwater flows before they reach infiltration basins or trenches. Stormwater shall not be allowed to stand more than seventy-two hours over eighty percent of the daily basin's bottom area for the maximum design event to be exfiltrated. The bottom of infiltration basins or trenches shall be a minimum of four feet above the seasonally high groundwater and bedrock level. Engineering calculations demonstrating infiltration rates shall be included with the application.

**3.4.3.5 - VEGETATED FILTER STRIPS AND SWALES:** To effectively filter stormwater pollutants and promote infiltration of runoff sites should be designed to maximize the use of vegetated filter strips and swales. Whenever practicable, runoff from impervious surfaces should be directed onto filter strips and swales comprised of native grasses and forbs before being routed to a storm sewer or detention basin.

**3.4.3.6 - SAFETY CONSIDERATIONS:** The drainage system components, especially all detention basins, shall be designed to protect the safety of any children or adults encountering the system during runoff events and shall comply with Section 1.2.0.

**3.4.3.7 - SLIDE SLOPES:** The side slopes of all detention basins at 100-year, 24-hour capacity shall be as level as practicable to prevent accidental falls into the basin and for stability and ease of maintenance. Side slopes of detention basins and open channels shall not be steeper than three (3) to one (1) (horizontal to vertical).

**3.4.3.8 - SAFETY LEDGE:** All wet detention basins shall have a level safety ledge at least four feet in width 2.5 to 3 feet below the normal water depth or must be protected by an enclosed fence, at least 48 inches in height.

**3.4.3.9 - VELOCITY:** Velocities throughout the surface drainage system shall be controlled to safe levels taking into consideration rates and depths of flow.

**3.4.3.10 - OVERFLOW STRUCTURES:** See 3.4.1.1

**3.4.3.11 - MAINTENANCE CONSIDERATIONS:** The stormwater drainage system shall be designed to minimize and facilitate maintenance. Turfed side slopes shall be designed to allow lawn mowing equipment to easily negotiate them. Wet basins shall be provided with alternate outflows which can be used to completely drain the pool for sediment removal. Pumping may be considered if drainage by gravity is not feasible. Pre-sedimentation basins shall be included, where feasible, for localizing sediment deposition and removal. Site access for heavy equipment shall be provided.

### **SECTION 3.5.0 - ACCOMMODATING FLOWS FROM UPSTREAM TRIBUTARY AREAS:**

Stormwater runoff from areas tributary to the property shall be considered in the design of the property's drainage system. Whenever practicable, flows from upstream areas that are not to be detained should be routed around the basin being provided for the site being developed.

**4.4.0.1 - UPSTREAM AREAS NOT MEETING ORDINANCE REQUIREMENTS:** When there are areas not meeting the storage and release rates of this

ordinance, tributary to the applicant's property, regionalized detention on the applicant's property shall may be explored by the applicant or the County. When it is deemed beneficial by the County or the Applicant to explore such a design, the following steps shall be followed:

1. The applicant shall compute the storage volume needed for his property using the release rates of Section 3.4.0, the applicant's property area, and the procedures described in Section 3.3.0.
2. Areas tributary to the applicant's property, not meeting the storage and release rate requirements of this ordinance, shall be identified.
3. Using the areas determined above plus the applicant's property area, total storage needed for the combined properties shall be computed.

Allowable release rates shall be computed using the combined property areas. Storage shall be computed as described in Section 3.4.0. If tributary areas are not developed, a reasonable fully developed land cover shall be assumed for the purposes of computing storage.

Once the necessary combined storage is computed, Menard County may choose to pay for over-sizing the applicant's detention basin to accommodate the regional flows. The applicant's responsibility will be limited to the storage for his property as computed above. If regional storage is selected by the County, then the design is produced in Section 3.3.0 shall be implemented. If regional storage is rejected by Menard County, the applicant shall bypass all tributary area flows around the applicant's basin whenever practicable. If the applicant must route upstream flows through his basin and the upstream areas exceed one-square mile in size, the applicant must meet the provision of Section 3.4.10.4 for on-stream basins.

**4.4.0.2 - UPSTREAM AREAS MEETING ORDINANCE REQUIREMENTS:** When there are areas which meet the storage and release rate requirements of this ordinance, tributary to the applicant's property, the upstream flows shall be bypassed around the applicant's detention basin if this is the only practicable alternative. Storage needed for the applicant's property shall be computed as described in Section 3.5.1. However, if the Menard County, Illinois decides to route tributary area flows through an applicant's basin, the final design storm water releases shall be based on the combined total of the applicant's property plus tributary areas. It must

be shown that at no time will the release rate from the combined property exceed the allowable release rate for applicant's property alone.

### **SECTION 3.6.0 - EARLY COMPLETION OF DETENTION FACILITIES:**

Where detention, retention, or depressional storage areas are to be used as part of the drainage system for a property, they shall be constructed as the first element of the initial earthwork program. Any eroded sediment captured in these facilities shall be removed by the applicant on a regular basis and before project completion to maintain the design volume of the facilities.

## Section 4.0 - SOIL EROSION AND SEDIMENT CONTROL

### SECTION 4.1.0 - FINDINGS:

1. The soil types found in the Menard County, Illinois are susceptible to erosion and left unprotected could cause severe loss of soil with resultant damage to property;
2. The topography of the Menard County, Illinois contains areas with steep slopes upon which, if clearing of trees and/or inappropriate construction takes place, could result in severe erosion and slope stability problems which could result in damage to property;
3. Excessive quantities of soil may erode from areas undergoing development for certain non-agricultural uses including but not limited to the construction of dwelling units, commercial buildings and industrial plants, the building of roads and highways, the modification of stream channels and drainage ways, and the creation of recreational facilities;
4. The washing, blowing, and falling of eroded soil across and upon roadways endangers the health and safety of users thereof, by decreasing vision and reducing traction of road vehicles;
5. Soil erosion necessitates the costly repairing of gullies, washed out fills, and embankments;
6. Sediment from soil erosion tends to clog sewers and ditches and to pollute and silt rivers, streams, lakes, sinkholes, wetlands, and reservoirs;
7. Sediment limits the use of water and waterways for most beneficial purposes, promotes the growth of undesirable aquatic weeds, destroys fish and other desirable aquatic life, and is costly and difficult to remove; and
8. Sediment reduces the channel capacity of waterways and the storage capacity of flood plains and natural depressions, resulting in increased chances of flooding at risk to public health and safety.

### SECTION 4.2.0 - GENERAL PRINCIPLES:

It is the objective of this ordinance to control soil erosion and sedimentation caused by development activities, including clearing, grading, stripping, excavating, and filling of land, in the Menard

County, Illinois. Measures taken to control soil erosion and off-site sediment runoff shall be adequate to assure that sediment is not transported from the site by a storm event of ten-year, 24-hour frequency or less. The following principles shall apply to all new development or redevelopment activities within the Menard County, Illinois and to the preparation of the submissions required under Section 4.3.0 of this ordinance.

1. New development or redevelopment shall be related to the topography and soils of the site so as to create the least potential for erosion. Areas of steep slopes greater than thirty-three (33%) where high cuts and fills may be required are to be avoided whenever possible, and natural contours should be followed as closely as possible.
2. Natural vegetation shall be retained and protected wherever possible. Areas immediately adjacent to natural watercourses, lakes, ponds, sinkholes, and wetlands are to be left undisturbed wherever possible. Temporary crossings of watercourses, when permitted, must include appropriate stabilization measures.
3. Special precautions shall be taken to prevent damages resultant from any necessary development activity within or adjacent to any stream, lake, pond, sinkhole, or wetland. Preventive measures shall reflect the sensitivity of these areas to erosion and sedimentation.
4. The smallest practical area of land should be exposed for the shortest practical time during development.
5. Sediment basins or traps, filter barriers, diversions, and any other appropriate sediment or runoff control measures shall be installed prior to site clearing and grading and maintained to remove sediment from run-off waters from land undergoing development.
6. The selection of erosion and sediment control measures shall be based on assessment of the probable frequency of climatic and other events likely to contribute to erosion, and on evaluation of the risks, costs, and benefits involved.
7. In the design of erosion control facilities and practices, aesthetics and the requirements of continuing maintenance must be considered.

8. Provisions shall be made to accommodate the increased run-off caused by changing soil and surface conditions during and after development. Drainage ways should be designed so that their final gradients and the resultant velocities and rates of discharge will not create additional erosion on-site or downstream.
9. Permanent vegetation and structures shall be installed and functional as soon as practical during development.
10. Those areas being converted from agricultural purposes to other land uses shall be vegetated with an appropriate protective cover prior to development.
11. All waste generated because of site development activity shall be properly disposed of and shall be prevented from being carried off the site by either wind or water.
12. All construction sites shall provide measures to prevent sediment from being tracked onto public or private roadways.
13. All temporary soil erosion and sediment control practices shall be maintained to function as intended until the contributing drainage area has been permanently stabilized at which time they shall be removed.

Water quality shall adhere to:

1. Illinois Environmental Protection Act - 415 ILCS 5/12, from Ch.III 1/2, par 1011 & 1012;
2. Illinois Pollution Control Board Rules & Regulations - Title 35: Environmental Protection, Subtitle C: Water Pollution, Chapter I: Pollution Control Board, Part 302 Water Quality Standards; and
3. Illinois Pollution Control Board Rules & Regulations - Title 35: Environmental Protection, Subtitle C: Water Pollution, Chapter I: Pollution Control Board, Part 304 Effluent Standards.

### **SECTION 4.3.0 - EROSION AND SEDIMENT CONTROL PLAN SUBMITTAL REQUIREMENTS:**

Each applicant shall submit the information depending on development size, as regulated to ensure that the provisions of this ordinance are met. The submittal shall include sufficient information to evaluate the environmental characteristics of the property, the potential adverse impacts of the

development related to erosion both on-site and off-site, and the effectiveness of the proposed erosion and sediment control plan in reducing sediment loss and meet the provisions of Section 1.2 The applicant shall certify on the drawing that all clearing, grading, drainage, and construction shall be accomplished in strict conformance with the erosion and sediment control plan. The following information shall be submitted for both existing and proposed property conditions; new development or re-developments meeting the requirements of Section 1.3.0.

**4.3.0.1 - EROSION AND SEDIMENT CONTROL PLAN REQUIREMENTS:** Shall meet the requirements of Section 3.1.1, Section 3.1.2, and Section 1.2

**4.3.0.2 - MAPPING AND DESCRIPTIONS:** The existing and proposed erosion and sediment control features of the property and immediate vicinity including:

As required in Section 3.1.2, Section 3.1.1.1, and Section 3.1.3;

1. Location of the slope disturbance line;
2. Location and description of the erosion and sediment control measures to be employed during construction;
3. For any structures proposed to be located on the slope side of the slope disturbance line the map shall include the limits of disturbance including tree removal, erosion and sediment control measures during construction, cross section view of any proposed cut or fill, erosion and sediment control measures during construction, details of method (s) proposed for providing slope stability, permanent stormwater control measures, and permanent erosion and sediment control measures all being certified by a registered professional engineer or a "Certified Professional Erosion Control Specialist."
4. The predominant soil types on the site, their location, and their limitations for the proposed use as defined by the U.S.D.A. Natural Resources Conservation Service.
5. The proposed use of the site, including present and planned development, areas of clearing, stripping, grading, excavation, and filling; proposed contours, finished grades, and street profiles; the stormwater plan as required in Section 3.0; kinds and locations of utilities, areas and acreages proposed to be paved, sodded, or seeded, vegetatively stabilized, or left undisturbed; and the

location of specimen trees over eighteen (18) inches in diameter and their type.

6. The erosion and sediment control plan showing all measures necessary to meet requirements of this ordinance throughout all phases of construction and those remaining permanently after completion of the development of the site, including:

- a) Location and description, including standard details, of all sediment control measures, runoff control measures, including diversions, waterways and outlets, and design specifics of sediment basins and traps including outlet details.
- b) Location and description of all soil stabilization and erosion control measures, including seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, kind, and quantity of mulching for both temporary and permanent vegetative control measures, and types of non-vegetative stabilization measures.
- c) Location and description of methods to prevent tracking of sediment offsite including construction entrance details, as appropriate.
- d) Description of dust and traffic control measures.
- e) Locations of stockpiles and description of stabilization methods.
- f) Location of off-site fill or borrow volumes, locations, and methods of stabilization.
- g) Provisions for maintenance of control measures, including type and frequency of maintenance, easements, and estimates of the cost of maintenance.
- h) The proposed phasing of development of the site, including stripping and clearing, rough grading and construction, and final grading and landscaping. Phasing should identify the expected date on which clearing will begin, the estimated duration of

exposure of cleared area, and the sequence of installation of temporary sediment control measures (including perimeter controls), installation of stormwater drainage, paving streets and parking areas, final grading and the establishment of permanent vegetative cover, and the removal of temporary measures. It shall be the responsibility of the applicant to notify the Code Administrator of any significant changes which occur in the site development schedule after the initial erosion and sediment control plan has been approved.

#### **SECTION 4.4.0-DESIGN AND OPERATION STANDARDS AND REQUIREMENTS:**

The preparation of soil erosion and sediment control plans shall follow the principles outlines in the "Illinois Procedures and Standards for Urban Soil Erosion and Sedimentation Control," excepting Chapter six (6) published by the Urban Committee of the Association of Illinois Soil and Water Conservation Districts. The design criteria, standards, and methods shall be prepared in accordance with the requirements of this ordinance and the standards and specifications contained in "Illinois Urban Manual" prepared for the Illinois Environmental Protection Agency by the U.S.D.A. Natural Resources Conservation Service, which standards and methods are hereby incorporated into this ordinance by reference. In the event of conflict between the provisions of said manuals and of this ordinance, this ordinance shall govern.

**4.4.0.1 - EROSION AND SEDIMENT CONTROL DESIGN REQUIREMENTS:** New developments or redevelopments shall comply with Section 4.3.0 and meet the following:

1. Control measures shall be constructed to control runoff from the property to such an extent possible that sediment is retained on-site.
2. Temporary on-site control measures required shall be constructed and functional prior to initiating clearing, grading, stripping, excavating or fill activities on the site.

3. Disturbed areas shall be stabilized with permanent measures within seven (7) calendar days following the end of active disturbance, or re-disturbance consistent with the following criteria:
  - a) Appropriate permanent stabilization measures shall include seeding, mulching, sodding, with non-vegetative measures as a last resort.
  - b) Areas having slopes greater than 33% shall be stabilized with sod, mat, or blanket in combination with seeding or equivalent.
  - c) All temporary and permanent erosion and sediment control practices must be maintained and repaired as needed to assure effective performance of their intended function.

#### **4.4.0.2 - SITE DEVELOPMENT**

**REQUIREMENTS:** On-site sediment control measures, as specified by the following criteria, shall be constructed as specified in the referenced handbooks, and functional prior to initiating clearing, grading, stripping, excavating or fill activities on the site.

1. For new developments or redevelopments less than one (1) acre, or for a tract of land where a single-family dwelling is being erected and less than 10,000 square feet of impervious surface is being developed, filter barriers (including filter fences, straw bales, or equivalent control measures) shall be constructed to control all on-site runoff. Vegetated filter strips, with a minimum width of twenty-five (25) feet, may be used as an alternative only where runoffs in sheet flow is expected.
2. For new developments or re-developments more than one (1) acre but less than five (5) acres, a sediment trap designed in accordance with the IEPA Standards and Specifications for Soil Erosion or equivalent control measures shall be constructed at the down slope point of the disturbed area.
3. For new developments or redevelopments greater than five (5) acres, a sediment basin or equivalent control measure shall be constructed at the down slope point of the disturbed area.
4. Sediment basin and sediment trap designs shall provide for both "dry" detention and

"wet" detention sediment storage. The detention storage shall be composed of equal volumes of "wet" detention storage and "dry" detention storage and each shall be sized as regulated in Section 3.0.

5. The release rate of the basin shall be that rate as regulated in Section 3.0. The elevation of the outlet structure shall be placed such that it only drains the dry detention storage.
6. The sediment storage shall be sized to store the estimated sediment load generated from the site over the duration of the construction period with a minimum storage equivalent to the volume or sediment generated in one year. For construction periods exceeding one year, the 1-year sediment load and a sediment removal schedule may be substituted.
7. The alteration of sinkholes by tilling, grading, or excavating is prohibited, including an area within twenty-five (25) feet from the rim.
8. To the extent possible or as otherwise regulated in this ordinance all desirable trees eight (8) inches in diameter and larger shall be protected for their present and future value for erosion protection and other environmental benefits. Trees that have been selected for preservation shall be marked prior to the beginning of any clearing, grading, stripping, excavation, or filling of the site. A "No" construction zone shall be established and marked at the perimeter of the drip line of each tree which is to be preserved.

#### **4.4.0.3 - STORMWATER CONVEYANCE**

**CHANNELS:** including ditches, swales, and diversions, and the outlets of all channels and pipes shall be designed and constructed as regulated in Section 3.0. All constructed or modified channels shall be stabilized within 48 hours, consistent with the standards as required in the IEPA Erosion Control Manual "Standards and Specifications for Soil Erosion and Sediment Control."

**4.4.0.4 - LAND DISTURBANCE ACTIVITIES IN STREAM CHANNELS;** shall be avoided, where possible, or as regulated in Section 3.0. If disturbance activities are unavoidable, the following requirements shall be met.

1. Construction vehicles shall be kept out of the stream channel to the maximum extent practicable. Where construction crossings

are necessary, temporary crossings shall be constructed of non-erosive material, such as riprap or gravel.

2. The time and area of disturbance of stream channels shall be kept to a minimum. The stream channel, including bed and banks, shall be stabilized within 48 hours after channel disturbance is completed, interrupted, or stopped.

**4.4.0.5 - STORM SEWER INLETS AND CULVERTS;** shall be protected by sediment traps or filter barriers meeting accepted design standards and specifications.

**4.4.0.6 - SOIL STORAGE PILES;** containing more than 10 cubic yards of material shall not be located with a down slope drainage length of less than 25 feet to a roadway, drainage channel, or sinkhole. Filter barriers, including straw bales, filter fence, or equivalent, shall be installed immediately on the down slope side of the piles.

- a) If dewatering devices are used, discharge locations shall be protected from erosion. All pumped discharges shall be routed through appropriately designed sediment traps or basins, or equivalent and shall not be deposited into a sinkhole.
- b) Each site shall have graveled (or equivalent) entrance roads, access, drives, and parking areas of sufficient length and width to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by shoveling or street cleaning (not flushing) before the end of each workday and transported to a controlled sediment disposal area.

## **SECTION 4.5.0 - MAINTENANCE OF CONTROL MEASURES:**

All soil erosion and sediment control measures necessary to meet the requirements of this ordinance shall be maintained periodically by the applicant or subsequent land owner during the period of land disturbance and development of the site in a satisfactory manner to ensure adequate performance.

## **SECTION 4.6 - CONTROL OF CONSTRUCTION SITE WASTES:**

All waste materials generated during construction activities must be properly disposed. Examples of construction site waste may consist of, but not be limited to, all building materials, raised structure debris, concrete (including concrete truck wash), asphalt, brick, excess soil, rebar, erosion & sediment control materials, cleared vegetation, chemicals, temporary bathroom facilities and all other construction site wastes.

## **SECTION 4.7 - CONSTRUCTION SITE STORM WATER POLLUTION PREVENTION: PLAN:**

Activities that are applicable to this ordinance, per Section 1.3.0, must provide a Construction Site Storm Water Pollution Prevention Plan (CSSPPP). The Construction Site Storm Water Pollution Prevention Plan may be a full-sized plan sheet with necessary notes for requirements or may be a narrative explaining construction site operating procedures to minimize or eliminate storm water pollution because of construction activities.

The items covered in an approvable CSSPPP are dependent on the activities and the materials required on site to complete the project. Therefore, the detail of the Plan may be depending on site activities planned.

Standard items included in a CSSPPP are, but are not limited to:

1. Purpose
2. Construction Site Description
3. Activities/Materials to be Addressed in the CSSPPP
4. Construction Site Operating Procedures
5. Activities/Materials Monitoring & Maintenance
6. Emergency and Spill Procedures

Should construction site activities/materials change during construction, the CSSPPP must reflect the changes. Therefore, the plan must be kept on-site at all times and be altered as necessary with the approval of the Inspector. Should major changes be warranted, a revised plan must be submitted for review and approval.

## **SECTION 5.0 - LONG TERM MAINTENANCE RESPONSIBILITY:**

### **SECTION 5.1.0 - LONG TERM MAINTENANCE RESPONSIBILITY:**

Maintenance of stormwater drainage, and erosion and sediment control facilities located on private property shall be the responsibility of the owner of that property. Before an appropriate permit is obtained from Menard County, Illinois the applicant shall execute a maintenance agreement with Menard County, Illinois of guaranteeing that the applicant and all future owners of the property will maintain its stormwater drainage and erosion and sediment control system and shall provide for access to the system for inspection by authorized personnel of Menard County, Illinois. The maintenance agreement shall also stipulate that if the appropriate personnel of Menard County, Illinois notify the property owner in writing of maintenance problems which require correction, the property owner shall begin such corrections within twenty-four (24) hours and shall not extend beyond seven (7) calendar days of such notification. If the corrections are not made within this time-period Menard County, Illinois may have the necessary work completed and assess the cost to the property owner. The Menard County, Illinois has the option of requiring a bond to be filed by the property owner for maintenance of the stormwater drainage and erosion and sediment control system.

## SECTION 6.0 - INSPECTIONS:

### SECTION 6.1.0 - INSPECTIONS:

The Soil and Water Conservationist shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the stormwater drainage or erosion and sedimentation control plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the Soil and Water Conservationist shall be maintained at the site during progress of the work. In order to obtain inspections and to ensure compliance with this ordinance, the permittee shall notify the Soil and Water Conservationist within two (2) working days of the completion of the construction stages specified below:

1. Upon completion of installation of the stormwater drainage and erosion and sediment control measures (including perimeter controls and diversions), prior to proceeding with any other earth disturbance or grading,
2. After stripping and clearing,
3. After final grading,
4. After seeding and landscaping deadlines, and
5. After final stabilization and landscaping, prior to removal of sediment controls.

If stripping, clearing, grading, and/or landscaping are to be done in phases or areas, the permittee shall give notice and request inspection at the completion of each of the above work stages in each phase or area. If an inspection is not made and notified of the results given within five working days after notice is received by the Menard County, Illinois from the permittee, the permittee may continue work at his/her own risk, without presuming acceptance by the Menard County, Illinois. Notification of the results of the inspection shall be given in writing at the site.

**6.1.0.1 - BI-WEEKLY INSPECTIONS:** Bi-weekly inspection reports shall be submitted to Menard County for all Development Permits. Except for permits involving the development of one single family dwelling the Bi-weekly reports must be certified by a registered professional engineer, describing the current status of construction for proposed drainage and detention system, including whether drainage construction and erosion control has been installed in accordance with construction

plans. Report shall define whether maintenance has been provided as needed for the erosion.

### SECTION 6.2.0 - SPECIALIZED PRECAUTIONS:

If at any stage of the grading of any development site the Soil and Water Conservationist determines by inspection that the nature of the site is such that further work authorized by an existing permit is likely to imperil any property, public way, stream, lake, wetland, or drainage structure, the Soil and Water Conservationist may require, as a condition of allowing the work to be done, that such reasonable special precautions to be taken as is considered advisable to avoid the likelihood of such peril. "Special precautions" may include, but shall not be limited to, a more level exposed slope, construction of additional drainage facilities, berms, ten-acing, compaction, or cribbing, installation of plant materials for erosion control, and recommendations of a registered soils engineer and/or engineering geologist which may be made requirements for further work.

**8.1.0.1 - WHERE IT APPEARS THAT STORM DAMAGE;** may result because the grading on any development site is not complete, work may be stopped and the permittee required to install temporary structures or take such other measures as may be required to protect adjoining property or the public safety. On large developments or where unusual site conditions prevail, the Soil and Water Conservationist may specify the time of starting grading and time of completion or may require that the operations be conducted in specific stages so as to ensure completion of protective measures or devices prior to the advent of seasonal rains.

### SECTION 6.3.0 - AMENDMENT OF PLANS:

Major amendments to stormwater drainage and detention or erosion and sediment control plans shall be submitted to the Code Administrator and shall be processed and approved or disapproved in the same manner as the original plans. Field modification of a minor nature may be authorized by the Code Administrator by written authorization to the permittee.

## SECTION 7.0 - PERMITTING:

### SECTION 7.1.0 - APPLICATION FOR PERMIT:

Application for a Development Permit shall be made by the owner of the property or his authorized agent to the Code Administrator on a form furnished for that purpose. Each application shall bear the name(s) and address(es) of the owner or developer of the site, the contractor(s) and any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm, and shall be accompanied by a filing fee of \$200 for any permit subject to the requirements of Section 3.0, Stormwater Drainage and Detention. No permit fee is assessed for those developments where only the requirements of Section 4.0, Soil Erosion and Sediment Control, apply. Each application shall include certification that any land clearing, construction, or development involving the movement of earth shall be in accordance with the plans approved upon issuance of the permit.

### SECTION 7.2.0 - BOND REQUIRED:

The applicant for a Development Permit may be required to file with the Menard County, Illinois, a faithful performance bond or bonds, letter of credit, or other improvement security satisfactory to the Menard County, Illinois State's Attorney in an amount deemed sufficient by the Code Administrator to cover all costs of improvements, landscaping, maintenance of improvements and landscaping, and soil erosion and sediment control measures for such period as specified by Menard County, Illinois and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

### SECTION 7.3.0 - REVIEW AND APPROVAL:

Each application for a Development Permit shall be reviewed and acted upon according to the following procedures:

**7.3.0.1 - THE CODE ADMINISTRATOR WILL REVIEW;** each application for a Development Permit to determine its conformance with the provisions of this ordinance. The Administrator may also refer any application to the County Soil and Water Conservation District, a consulting engineer retained by the county, and or any other local government or public agency within whose jurisdiction the site is located for review and

comment. Within thirty (30) days after receiving an application, the Code Administrator shall in writing:

- a) Approve the permit application if it is found to be in conformance with the provisions of this ordinance, and issue the permit;
- b) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance, and issue the permit subject to these conditions; or
- c) Disapprove the permit application, indicating the deficiencies and the procedure for submitting a revised application and/or submission.

**8.1.0.2 - NO DEVELOPMENT PERMIT;** shall be issued for an intended development site unless:

1. The development, including but not limited to subdivision or planned unit development, has been approved by Menard County, Illinois where applicable; or
2. Such permit is accompanied by or combined with a valid building permit issued by Menard County, Illinois; or
3. The proposed earth moving is coordinated with any overall Development program previously approved by the Menard County, Illinois for the area in which the site is situated; and
4. All relevant federal and state permits have been received for the portion of the site subject to soil disturbance as noted in Section 1.2.

### 8.1.0.3 - FAILURE OF THE CODE

**ADMINISTRATOR;** to act on an original or revised application within thirty (30) days of receipt shall authorize the applicant to proceed in accordance with the plans as filed and in compliance with the regulations contained herein, unless such time is extended by agreement between the Code Administrator and the applicant. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the Code Administrator.

### SECTION 7.4.0 - FINAL CERTIFICATION:

Prior to final approval by Menard County, a registered professional engineer shall certify that detention basin has been constructed in accordance

with construction plans and proposed volume has been provided. An "as-built" survey of the detention basin, prepared by a license surveyor, shall be included with the certification for approval.

### **SECTION 7.5.0 - EXPIRATION OF PERMIT:**

Every Development Permit shall expire and become null and void if the work authorized by such permit has not been commenced within one hundred and eighty (180) days, or if not completed by a date which shall be specified in the permit; except that the Code Administrator may, if the permittee presents satisfactory evidence that unusual difficulties have prevented work being commenced or completed within the specified time limits, grant a reasonable extension of time if written application is made before the expiration date of the permit. The Code Administrator may require modification of the erosion control plan to prevent any increase in erosion or off-site sediment runoff resulting from any extension.

### **SECTION 7.6.0 - APPEALS:**

The applicant, or any person or agency which received notice of the filing of the application, may appeal the decision of the Code Administrator to the Subdivision and Land Use Committee. Upon receipt of an appeal, the Subdivision and Land Use Committee shall schedule and hold a public hearing, after giving (15) days' notice thereof. The Board shall render a decision within thirty (30) days after the hearing. Factors to be considered on review shall include, but need not be limited to, the effects of the proposed development activities on the surface water flow to tributary and downstream lands, any comprehensive watershed management plans, or the use of any retention facilities; possible saturation of fill and unsupported cuts of said fill by water, both natural and domestic; runoff of surface waters that produce erosion and siltation of drainage ways; nature and type of soil and excessive and unnecessary scaling of the natural landscape through grading or removal of vegetation.

## **SECTION 8.0 - ENFORCEMENT:**

### **SECTION 8.1.0 - STOP-WORK ORDER; REVOCATION OF PERMIT:**

In the event any person holding a Development Permit pursuant to this ordinance violates the terms of the permit, or carries on-site development in such a manner as to materially adversely affect the health, welfare, environment, or safety of persons residing or working in the neighborhood of the development site or so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Code Administrator may suspend or revoke the Development Permit.

**8.1.0.1 - SUSPENSION OF A PERMIT;** shall be by a written stop-work order issued by the Code Administrator and delivered to the permittee or his agent of the person performing the work. The stop-work order shall be effective immediately, shall state the specific violations cited, and shall state the conditions under which work may be resumed. A stop-work order shall remain in effect until the next regularly scheduled meeting of the Subdivision and Land Use Committee at which the time the conditions of Section 7.5 below can be met.

**8.1.0.2 - NO DEVELOPMENT PERMIT;** shall be revoked until a hearing is held by the Subdivision and Land Use Committee. Written notice of such hearing shall be served on the permittee, either personally or by registered mail, and shall state:

1. The grounds for complaint or reasons for suspension or revocation, in clear and concise language; and

2. The time when and place where such hearing will be held.
3. Such notice shall be served on the permittee at least (5) days prior to the date set for the hearing. At such hearing, the permittee shall be given an opportunity to be heard and may call witnesses and present evidence on his behalf. At the conclusion of the hearing the Subdivision and Land Use Committee shall determine whether the permit shall be revoked.

### **SECTION 8.2.0 - VIOLATIONS AND PENALTIES:**

No person shall construct, enlarge, alter, repair, or maintain any grading, excavating or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this ordinance is committed, continued, or permitted shall constitute a separate offence. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than Five Hundred Dollars (\$500) for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this ordinance shall be required to restore the site to the condition existing prior to commission of the violation, or to bear the expense of such.

## **SECTION 9.0 - EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and approval and publication, is required by law.

# **MENARD COUNTY FLOOD DAMAGE PREVENTION ORDINANCE**



**Illinois Department of Natural  
Resources  
Office of Water Resources  
Statewide Programs  
Menard County Zoning Office**



## **FLOOD DAMAGE PREVENTION ORDINANCE – MENARD COUNTY IL**

### **DISCLAIMER**

This ordinance has been prepared to help communities meet the requirements of:

- the National Flood Insurance Program (NFIP), more specifically, this ordinance contains all the provisions necessary to comply with the requirements of section 60.3(d) of the NFIP
- the 615 ILCS 5/18(g) Rivers, Lakes, and Streams Act, including state floodway rules and dam safety

The State of Illinois and the Illinois Department of Natural Resources/Office of Water Resources (IDNR/OWR) does not require the use of this sample floodplain ordinance. If a locally developed ordinance is used, it must be reviewed by the IDNR/OWR and FEMA for compliance with the NFIP.

Prior to the enactment of any ordinance, a community should seek the advice of its legal counsel regarding its content and enactment. If the legal counsel is not involved in the actual preparation of the ordinance, legal counsel should review and comment upon the proposed ordinance prior to its enactment.

# **FLOOD DAMAGE PREVENTION ORDINANCE**

## **Communities with Mapped Floodways 60.3(d)**

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60.3(d) for communities with detailed mapping, including mapped floodways and countywide maps

Ordinance # \_\_\_\_\_

## **AN ORDINANCE REGULATING DEVELOPMENT IN FLOODPLAIN AREAS**

Be it ordained by the County Board of Commissioners of Menard County, Illinois as follows:

### **Section 1. Purpose.**

This ordinance is enacted pursuant to the police powers granted to Menard County by the County Statutory Authority in 55 ILCS 5/5-1041 and 5/5-1063 in order to accomplish the following purposes:

- A. To meet the requirements of 615 ILCS 5/18(g) Rivers, Lakes, and Streams Act;
- B. To prevent unwise developments from increasing flood or drainage hazards to others;
- C. To protect new buildings and major improvements to buildings from flood damage;
- D. To protect human life and health from the hazards of flooding;
- E. To promote and protect the public health, safety, and general welfare of the citizens from the hazards of flooding;
- F. To lessen the burden on the taxpayer for flood control, repairs to public facilities and utilities, and flood rescue and relief operations;
- G. To maintain property values and a stable tax base by minimizing the potential for creating blight areas;
- H. To comply with the rules and regulations of the National Flood Insurance Program codified as 44 CFR 59-79, as amended;
- I. To make federally subsidized flood insurance available by fulfilling the requirements of the National Flood Insurance Program, and
- J. To preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits, and enhance community and economic development.

## **Section 2. Definitions.**

Unless specifically defines below, all words used in this ordinance shall have their common meanings. The word “shall” means the action is mandatory.

For the purposes of this ordinance, the following definitions are adopted:

**Accessory Structure** A non-habitable building, used only for parking of vehicles or storage, that is on the same parcel of property as the principal building and which is incidental to the use of the principal building.

**Agricultural Structure** A walled and roofed structure used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, including aquatic organisms. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

**Base Flood** The flood having a one percent (1%) probability of being equaled or exceeded in any given year. The base flood is often referred to as the 100-year flood. The base flood elevation at any location is as defined in Section 3 of this ordinance.

**Base Flood Elevation (BFE)** The height in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified) of the crest of the base flood.

**Basement** Any portion of the building, including any sunken room or sunken portion of a room, having its floor below ground level (subgrade) on all sides.

**Building** A walled and roofed structure, including gas or liquid storage tank, that is principally above ground including manufactured homes and prefabricated buildings. The term also includes recreational vehicles and travel trailers installed on a site for more than one hundred eighty (180) days per year.

**Conditional Letter of Map Revision (CLOMR)** A letter providing FEMA’s comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing Floodway, the effective BFEs, or the SFHA.

**Critical Facility** Any facility which is critical to the health and welfare of the population and, if flooded, would create an added dimension to the disaster. Damage to these critical facilities can impact the delivery of vital services, can cause greater damage to other sectors of the community, or can put special populations at risk.

**Dam** All obstructions, wall embankments or barriers, together with their abutments and appurtenant works, if any, constructed for the purpose of storing or diverting water or creating a pool. Dams may also include weirs, restrictive culverts, or impoundment Structures. Underground water storage tanks are not included.

**Development** Any man-made change to real estate including, but not necessarily limited to:

1. demolition, construction, reconstruction, repair, placement of a building, or any structural alteration to a building;
2. substantial improvement of an existing building;
3. installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than one hundred eighty (180) days per year;
4. installation of utilities, construction of roads, bridges, culverts or similar projects;
5. redevelopment of a site, clearing of land as an adjunct of construction
6. construction or erection of levees, dams, walls, or fences;
7. drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface;
8. storage of materials including the placement of gas and liquid storage tanks, and channel modifications or any other activity that might change the direction, height, or velocity of flood or surface waters.

“Development” does not include resurfacing of pavement when there is no increase in elevation; construction of farm fencing; or gardening, plowing, and similar practices that do not involve filing, grading, or construction of levees.

**Elevation Certificate** A form published by FEMA that is used to certify the elevation to which a Building has been constructed.

**Existing Manufactured Home Park or Subdivision** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed or buildings to be constructed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**Expansion to an Existing Manufactured Home Park or Subdivision** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FEMA** Federal Emergency Management Agency and its regulations at 44 CFR 59-79, as amended.

**Flood** A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waters, or from the unusual and rapid accumulation or runoff of surface waters from any source. Flood also includes the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated

cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters.

**Flood Fringe** That portion of the floodplain outside of the regulatory floodway.

**Flood Insurance Rate Map** A map prepared by the FEMA that depicts the floodplain or special flood hazard area (SFHA) within a community. This map includes insurance rate zones and may or may not depict floodways and show BFEs.

**Flood Insurance Study**- An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**Floodplain and Special Flood Hazard Area (SFHA)** These two terms are synonymous. Those lands within the jurisdiction of the County that are subject to inundation by the base flood. The floodplains of the Cabiness, Grove, Pike, Salt, Clary, Concord, Indian, Latimore, Little Grove, Rock and Tar Creeks and the Sangamon River are generally identified on panels of the countywide Flood Insurance Rate Map of Menard County prepared by the Federal Emergency Management Agency and dated May 4, 2009. Floodplain also includes those areas of known flooding as identified by the community.

The floodplains of those parts of unincorporated Menard County that are within the extraterritorial jurisdiction of Athens, Petersburg, or Oakford or that may be annexed into Athens, Petersburg, or Oakford are generally identified as such on the FIRM prepared for Menard County by the FEMA and dated May 4, 2009.

**Floodproofing** Any combination of structural or nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate, property and their contents.

**Floodproofing Certificate** A form published by the FEMA that is used to certify that a building has been designed and constructed to be structurally dry flood proofed to the flood protection elevation.

**Flood Protection Elevation (FPE)** The elevation of the base flood plus one foot of freeboard at any given location in the floodplain.

**Floodway** That portion of the floodplain required to store and convey the base flood. The floodway for the floodplains of the Sangamon River Valley basin, along with its associated streams creeks and adjoining tributaries shall be as delineated on the countywide FIRM of Menard County prepared by FEMA and dated May 4, 2009. The floodways for each of the remaining floodplains of Menard County shall be according to the best data available from the Federal, State, or other sources.

**Freeboard** An increment of elevation added to the BFE to provide a factor of safety for uncertainties in calculations, future watershed development, unknown localized

conditions, wave actions and unpredictable effects such as those caused by ice or debris jams.

**Historic Structure** Any structure that is:

1. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
3. Individually listed on the state inventory of historic places by the Illinois Historic Preservation Agency.
4. Individually listed on a local inventory of historic places that has been certified by the Illinois Historic Preservation Agency.

**IDNR/OWR** Illinois Department of Natural Resources/Office of Water Resources.

**IDNR /OWR Jurisdictional Stream** IDNR/OWR has jurisdiction over any stream serving a tributary area of 640 acres or more in an urban area, or in the floodway of any stream serving a tributary area of 6,400 acres or more in a rural area. Construction on these streams requires a permit from the IDNR/OWR. (Ill Admin. Code tit. 17, pt. 3700.30). The IDNR/OWR may grant approval for specific types of activities by issuance of a statewide permit which meets the standards defined in Section 6 of this ordinance.

**Letter of Map Amendment (LOMA)** Official determination by FEMA that a specific building, defined area of land, or a parcel of land, where there has not been any alteration of the topography since the date of the first NFIP map showing the property within the floodplain, was inadvertently included within the floodplain and that the building, defined area of land, or a parcel of land is removed from the floodplain.

**Letter of Map Revision (LOMR)** Letter that revises BFEs, floodplains or floodways as shown on an effective FIRM.

**Lowest Floor** the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor. Provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 7 of this ordinance.

**Manufactured Home** A building, transportable in one or more sections that is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities.

**Manufactured Home Park or Subdivision** A parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.

**New Construction** Structures for which the start of construction commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements of such structures.

**New Manufactured Home Park or Subdivision** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed or buildings to be constructed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

**NFIP** National Flood Insurance Program.

**NAVD 88** North American Vertical Datum of 1988. NAVD 88 supersedes the National Geodetic Vertical Datum of 1929 (NGVD).

**Recreational Vehicle or Travel Trailer** A vehicle which is:

1. built on a single chassis;
2. four hundred (400) square feet or less in size, when measured at the largest horizontal projection;
3. designed to be self-propelled or permanently towable by a light duty truck; and
4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**Repetitive Loss**- Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred.

**SFHA** See definition of floodplain.

**Start of Construction** Includes substantial improvement and means the date the building permit was issued. This, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement, was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation or placement of a manufactured home on a foundation. For a substantial improvement, actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building whether or not that alteration affects the external dimensions of the building.

**Structure (see “Building”)** The results of a man-made change to the land constructed on or below the ground, including a building, as defined in Section 2, any addition to a building; installing utilities, construction of roads or similar projects; construction or erection of levees, walls, fences, bridges or culverts.

**Substantial Damage** Damage of any origin sustained by a structure whereby the cumulative percentage of damage subsequent to the adoption of this ordinance, equals or exceeds fifty percent (50%) of the market value of the structure before the damage occurred regardless of actual repair work performed. Volunteer labor and materials must be included in this determination. The term includes “Repetitive Loss Buildings” (see definition).

**Substantial Improvement** Any reconstruction, rehabilitation, addition, or improvement of a structure taking place subsequent to the adoption of this ordinance, in which the cumulative percentage of improvements equals or exceeds fifty percent (50%) of the market value of the structure before the improvement or repair is started, or increases the floor area by more than twenty percent (20%).

“Substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work done.

The term does not include:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
2. any alteration of a structure listed on the National Register of Historic Places or the Illinois Register of Historic Places.

**Violation** The failure of a structure or other development to be fully compliant with this ordinance.

### **Section 3. Base Flood Elevation.**

This ordinance’s protection standard is the base flood. The best available base flood data are listed below. Whenever a party disagrees with the best available data, the party shall finance the detailed engineering study needed to replace the existing data with better data and submit it to the FEMA and IDNR/OWR for approval prior to any development of the site.

- A. The base flood elevation for the floodplains of Grove Creek and the Sangamon River shall be as delineated on the 100-year flood profiles in the countywide Flood Insurance Study of Menard County prepared by the Federal Emergency Management Agency and May 4, 2009.

- B. The BFE for each floodplain delineated as an “AH Zone” or AO Zone” shall be that elevation (or depth) delineated on the countywide FIRM of Menard County.
- C. The BFE for each of the remaining floodplains delineated as an “A Zone” on the countywide FIRM of Menard County shall be according to the best data available from federal, state, or other sources. Should no other data exist, an engineering study must be financed by the applicant to determine BFEs.
- D. The BFE for the floodplains of those parts of unincorporated Menard County that are within the extraterritorial jurisdiction of the Athens, Petersburg, or Oakford, or that may be annexed into the Athens, Petersburg, or Oakford, shall be as delineated on the base flood profiles in the Flood Insurance Study of Menard County prepared by the FEMA and dated May 4, 2009.

#### **Section 4. Duties of the Floodplain Administrator.**

The Floodplain Administrator or his assignee shall be responsible for the general administration of this ordinance and ensure that all development activities within the floodplains under the jurisdiction of Menard County meet the requirements of this ordinance. Specifically, the Floodplain Administrator shall:

- A. Check all new development sites to determine if they are in the floodplain using the criteria listed in Section 3, Base Flood Elevation or for critical facilities, using the 0.2% annual chance flood elevation, if defined.
- B. Process development permits and any permit extensions in accordance with Section 5 and ensure all development activities happen in a timely manner.
- C. Ensure that all development in a floodway (or a floodplain with no delineated floodway) meets the damage prevention requirements of Section 6.
- D. Ensure that the building protection requirements for all buildings subject to Section 7 are met and maintain a record of the “as-built” elevation of the lowest floor (including basement), elevation certificate, or floodproofing certificate.
- E. Review Elevation Certificates for accuracy and require incomplete or deficient certificates to be corrected.
- F. Assure that all subdivisions and annexations meet the requirements of Section 8 and notify FEMA in writing whenever the corporate boundaries have been modified by annexation.
- G. Ensure that water supply and waste disposal systems meet the Public Health standards of Section 9.
- H. If a variance is requested, ensure that the requirements of Section 11 are met and maintain documentation of any variances granted.
- I. Inspect all development projects and take any and all penalty actions outlined in Section 13 as a necessary to ensure compliance with this ordinance.
- J. Ensure that applicants are aware of and obtain any and all other required local, state, and federal permits; including permits pertaining to IDNR/OWR floodway and dam

safety rules, Clean Water Act, Public Water Supply, Endangered Species Act, Illinois Endangered and Species Protection Act.

- K. Notify IDNR/OWR and any neighboring communities prior to any alteration or relocation of a watercourse.
- L. Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques.
- M. Cooperate with state and federal floodplain management agencies to coordinate base flood data and to improve the administration of this ordinance.
- N. Maintain for public inspection base flood data, floodplain maps, copies of state and federal permits, and any other documentation of compliance for development activities subject to this ordinance.
- O. Notify FEMA and IDNR/OWR of any proposed amendments to this ordinance.
- P. Perform site inspections to ensure compliance with this ordinance and make substantial damage determinations for structures within the floodplain.
- Q. Maintain the accuracy of floodplain maps including notifying IDNR/OWR and/or submitting information to FEMA within six months whenever a modification of the floodplain may change the BFE or result in a change to the floodplain map.
- R. Schedule an annual inspection of the floodplain and document the results of the inspection.
- S. Establish, procedures for administering and documenting determinations, as outlined below, of substantial improvement and substantial damage:
  - 1. Determine the market value or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building before the start of construction of the proposed work. In the case of repair, the market value of the Building shall be the market value before the damage occurred and before any repairs are made.
  - 2. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building.
  - 3. Determine and document whether the proposed work constitutes substantial improvement or substantial damage.
  - 4. Notify property owner of all determinations and responsibilities for permitting and mitigation

## **Section 5. Development Permit.**

### **A. Development permits**

- 1. No person, firm, corporation, or governmental body not exempted by law shall commence any development in the floodplain without first obtaining a development permit from the Floodplain Administrator.

2. No person, firm, corporation, or governmental body shall commence any development of a critical facility on land below the 0.2% annual chance flood elevation without first obtaining a Development permit from the Floodplain Administrator.
  3. The Floodplain Administrator shall only issue a permit for development activities, including new construction and substantial improvements, which meet the requirements of this ordinance.
- B. The application for development permit shall be accompanied by:
1. A site plan or drawings, drawn to scale using NAVD 88, showing:
    - a. property lines and dimensions,
    - b. existing grade elevations,
    - c. all changes in grade resulting from excavation or filling,
    - d. description of the benchmark or source of survey elevation control
    - d. sewage disposal facilities,
    - e. water supply facilities,
    - f. floodplain limits based on elevation or depth, as applicable;
    - g. floodway limits, as applicable;
    - h. the location and dimensions of all buildings and additions to buildings;
    - i. the location and dimensions of all structures, including but not limited to fences, culverts, decks, gazebos, agricultural structures, and accessory structures;
    - j. the elevation of the lowest floor (including basement) of all proposed buildings subject to the requirements of Section 7 of this ordinance.
  2. Cost of project or improvements, including all materials and labor, as estimated by a licensed engineer or architect. A signed estimate by a contractor may also meet this requirement.
- C. Upon receipt of an application for a development permit, Floodplain Administrator shall compare the elevation of the site to the BFE.
1. Any development located on land that is shown by survey elevation to be below the current BFE is subject to the provisions of this ordinance.
  2. Any development located on land shown to be below the BFE and hydraulically connected to a flood source, but not identified as floodplain on the current FIRM, is subject to the provisions of this ordinance.
  3. Any development located on land that can be shown by survey data to be higher than the current BFE and which has not been filled after the date of the site's first flood map showing the site in the floodplain, is not located in a mapped floodway, or located in a Zone A, is not in the floodplain and therefore not subject to the provisions of this ordinance. A LOMA-Floodway

is required before developing land inadvertently included in a mapped floodway. Unless a LOMA is obtained, all ordinance provisions apply if the land is located in a Zone A.

4. Any development located on land that is above the current BFE but will be graded to an elevation below the BFE, is subject to the provisions of this ordinance.
  5. The Floodplain Administrator shall maintain documentation of the existing ground elevation at the development site and certification that this ground elevation existed prior to the date of the site's first FIRM identification.
  6. The Floodplain Administrator shall be responsible for obtaining from the applicant copies of all other federal, state, and local permits, approvals or permit-not-required letters that may be required for this type of activity. The Floodplain Administrator shall not issue a permit unless all other federal, state, and local permits have been obtained.
- D. Upon receipt of an application for a critical facility, Floodplain Administrator shall compare the elevation of the site to the 0.2% annual chance flood elevation, if available. Refer to Section 9. A. 5. for critical facility site requirements.
- E. A development permit or approval shall become invalid unless the actual Start of Construction, as defined, for work authorized by such permit, is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. All permitted work shall be completed within twelve (12) months, after the date of issuance of the permit or the permit shall expire. Time extensions, of not more than 180 days each, may be granted, in writing, by the Floodplain Administrator. Time extensions shall be granted only if the original permit is compliant with this ordinance and the FIRM and FIS in effect at the time the extension is granted.
- F. Certification and As-Built Documentation. The applicant is required to submit certification by a licensed professional engineer or registered land surveyor that the finished fill and building elevations were accomplished in compliance with Section 7 of this ordinance. Floodproofing measures must be certified by a registered professional engineer or registered architect as being compliant with applicable floodproofing standards. Accessory structures designed in accordance with Section 7 of this ordinance are exempt from certification, provided sufficient compliance with the development permit are documented. FEMA Elevation Certificate and Floodproofing Certificate forms may be required as documentation of compliance.

An as-built grading plan, prepared by a registered professional engineer may be required to certify that any development in floodplain, such as grading or the construction of bridges or culverts, are in substantial conformance with the development permit.

No building, land or structure may be occupied or used in any manner until a letter or certificate has been issued by the Floodplain Administrator stating that the use of the building or land conforms to the requirements of this ordinance.

The Floodplain Administrator must maintain records in perpetuity documenting compliance with this ordinance, including the elevation to which structures and alterations to structures are constructed or floodproofed.

- G. Application Fees and Engineering Review Fee A non-refundable application fee of **\$200.00** shall be paid to the Menard County Zoning Office. An additional fee may be charged if the Floodplain Administrator requires the assistance of a professional engineer or other expert. The applicant will be contacted in writing before any outside review begins with the estimated engineering or expert review fee. The applicant must consent in writing before the outside review begins. The engineering review fee shall be paid in full by the applicant within 30 days after the applicant receives the bill.

### **Section 6. Preventing Increased Flood Heights and Resulting Damages.**

Within any floodway identified on the countywide FIRM, and within all other floodplains where a floodway has not been delineated, the following standards shall apply:

- A. Except as provided in Section 6 B. of this ordinance, no development shall be allowed which, acting in combination with existing and anticipated development will cause any increase in flood heights or velocities or threat to public health and safety. The following specific development activities shall be considered as meeting this requirement:
1. Bridge and culvert crossings of streams in rural areas meeting the conditions of the IDNR/OWR Statewide Permit Number 2.
  2. Barge fleeting facilities meeting the conditions of IDNR/OWR Statewide Permit Number 3.
  3. Aerial utility crossings meeting the conditions of IDNR/OWR Statewide Permit Number 4.
  4. Minor boat docks meeting the following conditions of IDNR/OWR Statewide Permit Number 5.
  5. Minor, non-obstructive activities such as underground utility lines, light poles, sign posts, driveways, athletic fields, patios, playground equipment, minor storage buildings not exceeding 70 square feet and raising buildings on the same footprint which does not involve fill and any other activity meeting the conditions of IDNR/OWR Statewide Permit Number 6.
  6. Outfall Structures and drainage ditch outlets meeting the following conditions of IDNR/OWR Statewide Permit Number 7.
  7. Underground pipeline and utility crossings meeting the conditions of IDNR/OWR Statewide Permit Number 8.
  8. Bank stabilization projects meeting the conditions of IDNR/OWR Statewide Permit Number 9.

9. Accessory structures and additions to existing residential buildings meeting the conditions of IDNR/OWR Statewide Permit Number 10.
  10. Minor maintenance dredging activities meeting the following conditions of IDNR/OWR Statewide Permit Number 11.
  11. Bridge and culvert replacement structures and bridge widening meeting the following conditions of IDNR/OWR Statewide Permit Number 12.
  12. Temporary construction activities meeting the following conditions of IDNR/OWR Statewide Permit Number 13.
  13. Any development determined by IDNR/OWR to be located entirely within a flood fringe area shall be exempt from state floodway permit requirements.
- B. Other development activities not listed in 6(A) may be permitted only if:
1. permit has been issued for the work in an IDNR/OWR Jurisdictional Streams by IDNR/OWR (or written documentation is provided that an IDNR/OWR permit is not required), or
  2. sufficient data has been provided to FEMA when necessary, and approval obtained from FEMA for a revision of the regulatory map and BFE.

### **Section 7. Protecting Buildings.**

- A. In addition to the state permit and damage prevention requirements of Section 6 of this ordinance, all buildings located in the floodplain shall be protected from flood damage below the FPE. This building protection requirement applies to the following situations:
1. Construction or placement of a new building or alteration or addition to an existing building valued at more than one thousand dollars (\$1,000) or seventy (70) square feet.
  2. Substantial improvements or structural alterations made to an existing building that increase the floor area by more than twenty percent (20%) or equal or exceed the market value by fifty percent (50%). Alteration shall be figured cumulatively subsequent to the adoption of this ordinance. If substantially improved, the existing structure and the addition must meet the flood protection standards of this section.
  3. Repairs made to a substantially damaged building. These repairs shall be figured cumulatively subsequent to the adoption of this ordinance. If substantially damaged, the entire structure must meet the flood protection standards of this section within 24 months of the date the damage occurred.
  4. Installing a manufactured home on a new site or a new manufactured home on an existing site. (The building protection requirements do not apply to returning a manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage).

5. Installing a travel trailer or recreational vehicle on a site for more than one hundred eighty (180) days per year.
  6. Repetitive loss to an existing building as defined in Section 2.
  7. Construction or placement of a new building or alteration or addition to an existing building with the low floor below BFE following a LOMR-F in accordance with the conditions outlined in Section 9. E.)
- B. Residential or non-residential buildings can meet the building protection requirements by one of the following methods:
1. The building may be constructed on permanent land fill with the lowest floor including basement at or above the FPE in accordance with the following conditions.:
    - a. The lowest floor (including basement) shall be at or above the FPE.
    - b. The fill shall be placed in layers no greater than six inches before compaction and should extend at least twenty (20) feet beyond the foundation before sloping below the FPE in lieu of a geotechnical report.
    - c. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or other structural measure.
    - d. The fill shall be composed of rock or soil and not incorporated debris or refuse material.
    - e. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties and when necessary stormwater management techniques, such as swales or basins, shall be incorporated.
  2. The building may be elevated on solid walls in accordance with the following:
    - a. The building or improvements shall be elevated on stilts, piles, walls, crawlspace, or other foundation that is permanently open to flood waters.
    - b. All components located below the FPE shall be constructed of materials resistant to flood damage.
    - c. The lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment shall be located at or above the FPE.
    - d. If walls are used, all enclosed areas below the FPE shall provide for equalization of hydrostatic pressures by allowing the automatic entry and exit of floodwaters. At least two (2) walls must have a minimum of one (1) permanent opening that is below the BFE and no more than one (1) foot above finished grade. The openings shall provide a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area subject to flooding below the BFE, or the design must be certified by a Registered P.E, as providing the equivalent performance in accordance

with accepted standards of practice. Refer to FEMA TB 1, Openings in Foundation Walls and Walls of Enclosures, for additional guidance.

- e. The foundation and supporting members shall be anchored, designed, and certified so as to minimize exposure to hydrodynamic forces such as current, waves, ice, and floating debris.
  - i. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other service facilities may be located below the FPE provided they are waterproofed.
  - ii. The area below the FPE shall be used solely for parking or building access and not later modified or occupied as habitable space.
  - iii. In lieu of the above criteria, the design methods to comply with these requirements may be certified by a licensed professional engineer or architect.
- 3. The building may be constructed with a crawlspace located below the FPE provided that the following conditions and requirements of FEMA TB 11, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas, which ever are more restrictive, are met:
  - a. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - b. All enclosed areas below the FPE shall provide for equalization of hydrostatic pressures by allowing the automatic entry and exit of floodwaters. A minimum of one (1) permanent opening shall be provided on at least two walls that is below the BFE and no more than one (1) foot above finished grade. The openings shall provide a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area subject to flooding below the BFE, or the design must be certified by a Registered P.E. as providing the equivalent performance in accordance with accepted standards of practice. Refer to FEMA TB 1, Openings in Foundation Walls and Walls of Enclosures, for additional guidance.
  - c. The interior height of the crawlspace measured from the interior grade of the crawl to the top of the foundations wall must not exceed four (4) feet at any point.
  - d. An adequate drainage system must be installed to remove floodwaters from the interior area of the crawlspace within a reasonable period of time after a flood event.
  - e. Portions of the building below the FPE must be constructed with materials resistant to flood damage, and
  - f. Utility systems within the crawlspace must be elevated above the FPE.

- C. Non-residential buildings may be structurally dry floodproofed (in lieu of elevation) provided a licensed professional engineer or architect certifies that:
1. Below the FPE the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood.
  2. The building design accounts for flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and the impact from debris and ice.
  3. Floodproofing measures will be incorporated into the building design and operable without human intervention and without an outside source of electricity.
  4. Levees, berms, floodwalls and similar works are not considered floodproofing for the purpose of this subsection.
- D. Manufactured homes or travel trailers to be permanently installed on site shall be:
1. Elevated to or above the FPE in accordance with Section 7. B, and
  2. anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the rules and regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 Ill. Adm. Code § 870.
- E. Travel trailers and recreational vehicles on site for more than one hundred eighty (180) days per year shall meet the elevation requirements of section 7. D unless the following conditions are met:
1. The vehicle must be either self-propelled or towable by a light duty truck.
  2. The hitch must remain on the vehicle at all times.
  3. The vehicle must not be attached to external structures such as decks and porches
  4. The vehicle must be designed solely for recreation, camping, travel, or seasonal use rather than as a permanent dwelling.
  5. The vehicles having a total area not exceeding four hundred (400) square feet measured when measured at the largest horizontal projection.
  6. The vehicle's wheels must remain on axles and inflated.
  7. Air conditioning units must be attached to the frame so as to be safe for movement of the floodplain.
  8. Propane tanks as well as electrical and sewage connections must be quick-disconnect.
  9. The vehicle must be licensed and titled as a recreational vehicle or park model, and must either:
    - a. entirely be supported by jacks, or

- b. have a hitch jack permanently mounted, have the tires touching the ground and be supported by block in a manner that will allow the block to be easily removed by used of the hitch jack.
- F. Detached accessory structures may be permitted provided the following conditions are met:
  1. The structure must be non-habitable.
  2. The structure must be used only for the parking and storage and cannot be modified later into another use.
  3. The structure must be located outside of the floodway or have the appropriate state and/or federal permits.
  4. The exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the BFE, must be built with flood-resistant materials in accordance Section 7.
  5. All utilities, mechanical, and electrical must be elevated above the FPE.
  6. The structure must have at least one permanent opening on at least two walls not more than one (1) foot above grade with one (1) square inch of opening for every one (1) square foot of floor area.
  7. The structure must be no more than one story in height and no more than six hundred (600) square feet in size.
  8. The structure shall be anchored to resist floatation, collapse, lateral movement. and overturning.
  9. All flammable or toxic materials (gasoline, paint, insecticides, fertilizers, etc.) shall be stored above the FPE.
  10. The lowest floor elevation should be documented and the owner advised of the flood insurance implications.

## **Section 8. Subdivision Requirements**

The Menard County Board of Commissioners shall take into account hazards, to the extent that they are known, in all official actions related to land management use and development.

- A. New subdivisions, manufactured home parks, annexation agreements, planned unit developments, and additions to manufactured home parks and subdivisions shall meet the damage prevention and building protections standards of Sections 6 and 7 of this ordinance.
- B. Streets, blocks lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains should be included within parks, open space parcels, or other public grounds.
- C. Any proposal for such development shall include the following data:

1. The BFE and the boundary of the floodplain, where the BFE is not available from an existing study, the applicant shall be responsible for calculating the BFE.
2. The boundary of the floodway, when applicable.
3. A signed statement by a Licensed Professional Engineer that the proposed plat or plan accounts for changes in the drainage of surface waters in accordance with the Plat Act (765 ILCS 205/2).

## **Section 9. Public Health and Other Standards**

A. Public health standards must be met for all floodplain development. In addition to the requirements of Sections 6 and 7 of this ordinance, the following standards apply:

1. No development in the floodplain shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the FPE unless such materials are stored in a floodproofed and anchored storage tank and certified by a professional engineer or floodproofed building constructed according to the requirements of Section 7 of this ordinance.
2. Public utilities and facilities such as sewer, gas and electric shall be located and constructed to minimize or eliminate flood damage.
3. Public sanitary sewer systems and water supply systems shall be located and constructed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
4. New and replacement on-site sanitary sewer lines or waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding. Manholes or other above ground openings located below the FPE shall be watertight.
5. Critical facilities, which are buildings, constructed or substantially improved within the floodplain or the 0.2 percent annual chance flood elevation when defined, shall have the lowest floor (including basement) elevated or structurally dry floodproofed to the 0.2 percent annual chance flood elevation or three feet above the BFE, whichever is greater. Adequate parking shall be provided for staffing of the critical facilities at or above the BFE or 0.2 percent chance flood, when defined. Access routes to all critical facilities should be reviewed and considered when permitting. Access routes should be elevated to or above the level of the BFE .

Floodproofing and sealing measures may also be used to provide protection, as described in Section 7, and must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.

Critical Facilities include emergency services facilities (such as fire and police stations), schools, hospitals, retirement homes, and senior care facilities, sewage treatment plants, water treatment plants, State Route 29, 97 and 123 and associated bridges required for evacuation, critical utility sites (telephone

switching stations or electrical transformers), and hazardous material storage facilities (chemicals, petrochemicals, hazardous or toxic substances). All other activities defined as development shall be designed so as not to alter flood flows or increase potential flood damages.

- B. Dams are classified as to their size and their hazard/damage potential in the event of failure. Permits for dams may be required from IDNR/OWR. Contact IDNR/OWR to determine if a permit is required. If a permit is required, a permit application must be made to IDNR/OWR prior to the construction or major modification of jurisdictional dams.
- C. Letters of Map Revision. The Floodplain Administrator shall require a CLOMR prior to issuance of a development permit for:
  - 1. Proposed floodway encroachments that will cause an increase in the BFE; and
  - 2. Proposed development which will increase the BFE by more than 0.1 feet in riverine area where FEMA has provided a BFE but no floodway.

Once a CLOMR has been issued, the development permit may be issued for site grading and structures necessary in the area of the map change to achieve the final LOMR. Upon completion, the applicant shall submit as-built certifications, as required by FEMA, to achieve a final LOMR prior to the release of final development permits. Review Section 9. E for the construction of buildings in any floodplain issued a LOMR Based on Fill.

- D. When construction of a building following a LOMR Based on Fill is requested, the condition where a site in the floodplain is removed due to the use of fill to elevate the site above the BFE, the applicant may apply for a permit from Menard County to construct the lowest floor of a building below the BFE in the floodplain. The Floodplain Administrator shall not issue such a permit unless the applicant has demonstrated that the building will be reasonable safe from flooding. The Floodplain Administrator shall require a professional certification from a qualified design professional that indicates the land or buildings are reasonably safe from flooding, according to the criteria established in FEMA TB 10. Professional certification may come from a professional engineer, professional geologist, professional soil scientist, or other design professional qualified to make such evaluations.

The Floodplain Administrator shall maintain records, available upon request by FEMA, all supporting analysis and documentation used to make that determination, including but not limited to, all correspondence, professional certification, existing and proposed grading, sump pump sizing, foundation plans, Elevation Certificates, soil testing and compaction data.

## **Section 10. Carrying Capacity and Notification.**

For all projects involving channel modification, fill, or stream maintenance (including levees), the flood carrying capacity of the watercourse shall be maintained.

In addition, Menard County shall notify adjacent communities in writing thirty (30) days prior to the issuance of a permit for the alteration or relocation of the watercourse.

**Section 11. Variances.**

- A. No variances shall be granted within a floodway if any increases in the base flood elevation would result.
- B. Whenever the standards of this ordinance place undue hardship on a specific development proposal, the applicant may apply to the Zoning Administrator for a variance. The Zoning Administrator shall review the applicant's request for a variance and shall submit its recommendation to the Zoning Board of Appeals. The Zoning Board of Appeals may attach such conditions to granting of a variance as it deems necessary to further the purposes and objectives of this ordinance. The Zoning Board of Appeals shall base the determination on:
  - 1. Technical justifications submitted by the applicant.
  - 2. The staff report, comments, and recommendations submitted by the floodplain administrator.
  - 3. The limitations, considerations, and conditions set forth in this section.
- C. The findings of fact and conclusions of law made by Zoning Board of Appeals according to Section 11. A, the notifications required by Section 11. B, and a record of hearings and evidence considered as justification for the issuance of all variances from this ordinance shall be maintained by Menard County in perpetuity.
- D. No variance shall be granted unless the applicant demonstrates and the Zoning Board of Appeals finds that all of the following conditions are met:
  - 1. The development activity cannot be located outside the floodplain.
  - 2. A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable.
  - 3. The variance granted is the minimum necessary is the minimum necessary, considering the flood hazard, to afford relief.
  - 4. There will be no additional threat to public health, public safety, destruction of beneficial stream uses and functions including, aquatic habitat, causation of fraud on or victimization of the public, conflict with existing local laws or ordinances, or creation of a nuisance.
  - 5. There will be no additional public expense for flood protection, rescue or relief operations, policing, lost environmental stream uses and functions, repairs to streambeds and banks, or repairs to roads, utilities, or other public facilities.
  - 6. The circumstances of the property are unique and do not establish a pattern inconsistent with the intent of the NFIP.

7. Good and sufficient cause has been shown that the unique characteristics of the size, configuration, or topography of the site renders the requirements of this ordinance inappropriate.
  8. All other state and federal permits have been obtained.
- E. The Zoning Board of Appeals shall notify an applicant in writing that a variance from the requirements of the building protections standards of Section 7 that would lessen the degree of protection to a building will:
1. Result in increased premium rates for flood insurance up to twenty-five dollars (\$25) per one hundred dollars (\$100) of insurance coverage.
  2. Increase the risk to life and property.
  3. Require that the applicant proceed with knowledge of these risks and that the applicant acknowledge in writing the assumption of the risk and liability.
- F. Considerations for Review. In reviewing applications for variances, all technical evaluations, all relevant factors, all other portions of these regulations, and the following shall be considered:
1. The danger that materials and debris may be swept onto other lands resulting in further injury or damage.
  2. The danger to life and property due to flooding or erosion damage.
  3. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners.
  4. The importance of the services provided by the proposed development to the community.
  5. The availability of alternate locations for the proposed development that are not subject to flooding or erosion.
  6. The compatibility of the proposed development with existing and anticipated development.
  7. The relationship of the proposed development to the comprehensive plan and floodplain management program for that area.
  8. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  9. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
  10. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets, and bridges.

- G. Historic Structures. Variances issued for the reconstruction, repair, or alteration of a historic site or historic structure as defined in “Historic Structures”, may be granted using criteria more permissive than the requirements of Sections 6 and 7 of this ordinance subject to the conditions that:
1. The repair or rehabilitation is the minimum necessary to preserve the historic character and design of the structure.
  2. The repair or rehabilitation will not preclude the structure’s continued designation as a historic structure.
- H. Agriculture Structures. Variances issued for the construction or substantial improvement of agricultural structures which do not meet the non-residential building requirements of Sections 7. B and 7. C, provided the requirements of Section 11. A through 11. G and the following are satisfied:
1. A determination that the proposed agricultural structure:
    - a. Is used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities, or storage of tools or equipment used in connection with these purposes or uses, and will be restricted to such exclusive uses.
    - b. Has low damage potential (amount of physical damage, contents damage, and loss of function).
    - c. Does not increase risks and pose a danger to public health, safety, and welfare if flooded and contents are released, including but not limited to the effects of flooding on liquified natural gas terminals, and production and storage of highly volatile, toxic, or water-reactive materials.
    - e. Complies with the wet floodproofing construction requirements of Section H. 2.
  2. Wet floodproofing construction requirements. Wet floodproofed structures shall:
    - a. The exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the BFE, must be built with flood-resistant materials in accordance with Section 7 of this ordinance.
    - b. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
    - c. All enclosed areas below the FPE shall provide for equalization of hydrostatic pressures by allowing the automatic entry and exit of floodwaters. A minimum of one (1) permanent opening shall be provided on at least two walls that is below the BFE and no more than one (1) foot above finished grade. The openings shall provide a total net area of not

less than one (1) square inch for every one (1) square foot of enclosed area subject to flooding below the BFE, or the design must be certified by a Registered P.E. as providing the equivalent performance in accordance with accepted standards of practice. Refer to FEMA TB 1, Openings in Foundation Walls and Walls of Enclosures, for additional guidance.

- d. Any mechanical, electrical, or other utility equipment must be located above the BFE or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 7 of this ordinance.
- e. If located in a floodway, must be issued a state floodway permit, and comply with Section 6 of this ordinance.
- f. The building may not be used for manure storage or livestock confinement operations.

### **Section 12. Disclaimer of Liability.**

The degree of protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes. This ordinance does not imply that development either inside or outside of the floodplain will be free from flooding or damage. This ordinance does not create liability on the part of Menard County or any officer or employee thereof for any flood damage that results from proper reliance on this ordinance or any administrative decision made lawfully hereunder.

### **Section 13. Penalty.**

Failure to obtain a permit for development in the floodplain or failure to comply with the conditions of a permit or a variance shall be deemed to be a violation of this ordinance. Upon due investigation, the Zoning Administrator may determine that a violation of the minimum standards of this ordinance exists. The Zoning Administrator shall notify the owner in writing of such violation.

- A. If such owner fails after ten (10) days from the date the written notice is issued, to correct the violation:
  - 1. The County shall make application to the circuit court for an injunction requiring conformance with this ordinance or make such other order as the court deems necessary to secure compliance with the ordinance.
  - 2. Any person who violates this ordinance shall upon conviction thereof be fined not less than fifty dollars (\$50) or more than seven hundred fifty (\$750) for each offense.
  - 3. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues, and

4. The County shall record a notice of violation on the title of the property.
- B. The Zoning Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

The Zoning Administrator is authorized to issue an order requiring the suspension of the subject development. The stop-work order shall be in writing, indicate the reason for the issuance, and shall order the action, if necessary, to resolve the circumstances requiring the stop-work order. The stop-work order constitutes a suspension of the permit.

No site development permit shall be permanently suspended or revoked until a hearing is held by the Zoning Board of Appeals. Written notice of such hearing shall be served on the permittee and shall state the grounds for the complaint, reasons for suspension or revocation, and the time and place of the hearing.

At such hearing the permittee shall be given an opportunity to present evidence on their behalf. At the conclusion of the hearing, the Zoning Board of Appeals shall determine whether the permit shall be suspended or revoked.

- C. Nothing herein shall prevent the County from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

#### **Section 14. Abrogation and Greater Restrictions.**

This ordinance repeals and replaces other ordinances adopted by the County to fulfill the requirements of the NFIP including: May 4, 2009. However, this ordinance does not repeal the original resolution or ordinance adopted to achieve eligibility in the program. Nor does this ordinance repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this ordinance and other ordinance easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### **Section 15. Severability.**

The provisions and sections of this ordinance shall be deemed separable and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

#### **Section 16. Effective Date.**

This ordinance shall be in full force and effect from and after its passage, approval, and publication as required by law.

Passed by the Board of Commissioners of the County of Menard, Illinois,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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Martha Gum, Menard County Clerk

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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Robert Lott, Chairman  
Menard County Board of Commissioners

Attested and filed in my office this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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Martha Gum, Menard County Clerk

# **NON-COMMERCIAL SOLAR ORDINANCE OF MENARD COUNTY**



*A Center of Lincoln's Illinois*

Adopted June 12, 2018  
Amended July 11, 2023

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## **ARTICLE I**

### **1.01 TITLE**

This ordinance is the Non-Commercial solar ordinance of Menard County. References in this document to “the solar code”, “the solar ordinance”, “this code”, or “this ordinance” shall be deemed to be references to the Non-Commercial Solar Ordinance of Menard County as amended from time to time.

### **1.02 PURPOSE**

The purpose of this ordinance is to facilitate the construction, installation, and operation of Solar Energy Systems (SECS) in Menard County in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, conservation lands, and other sensitive lands. This ordinance is not intended to abridge safety, health, or environmental requirements contained in other applicable codes, standards, or ordinances.

### **2.01 DEFINITIONS**

**ACCESSORY:** As applied to a building, structure, or use, one which is on the same lot with, incidental to, and subordinate to the main or principal structure or use and which is used for purposes customarily incidental to the main or principal structure, or the main or principal use.

**BUILDING INTEGRATED PHOTOVOLTAIC SYSTEMS:** A solar energy system that consists of integrating photovoltaic modules into the building structure as the roof or façade and which does not alter the relief of the roof.

**GROUND MOUNT SOLAR ENERGY CONVERSION SYSTEM (SECS):** A solar energy conversion system that is directly installed into the ground and is not attached or affixed to an existing structure.

**NET METERING:** A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.

**PHOTOVOLTAIC SYSTEM:** A solar energy system that produces electricity by the use of semiconductor devices called photovoltaic cells that generate electricity whenever light strikes the cells.

**QUALIFIED SOLAR INSTALLER:** A trained and qualified electrical professional, certified in Illinois and listed with the International Code Council (ICC), who has the skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved.

**ROOF MOUNT SOLAR ENERGY CONVERSION SYSTEM:** A solar energy conversion system in which solar panels are mounted on top of a building roof as either a flush mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

**SOLAR ACCESS:** Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

**SOLAR COLLECTOR:** A device, structure, or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical or electrical energy.

**SOLAR ENERGY:** Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

**SOLAR ENERGY STORAGE BATTERY/UNIT:** A component of a solar energy device that is used to store solar generated electricity or heat for later use.

**SOLAR THERMAL SYSTEMS:** Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

### **3.01 GROUND MOUNT AND ROOF MOUNT (SECS) PERMITTED AS AN ACCESSORY USE.**

Ground Mount and Roof Mount (SECS) shall be permitted as an accessory use by a building permit in all zoning districts. An application shall be submitted to the Zoning Office demonstrating compliance with the Menard County Zoning Ordinance in addition to the following requirements:

1. Height:
  - a. Building or roof mounted solar energy systems shall not exceed the maximum allowed height for principal structures in their respective zoning district.
  - b. Ground or pole-mounted solar energy systems shall not exceed the following height requirements in the specified Zoning districts when oriented at maximum tilt. The remaining Zoning Districts will be allowed at the maximum height requirement.

**Agricultural District (AG) – 20 feet**

**Rural Residential (RR) – 16 feet**

**Single Family Residential and Multiple Family (R1 & R3) – 10 feet**

- c. Ground mounted solar energy systems may be placed in the front yard, but shall not exceed 30 inches above grade.

2. Setbacks:

- a. Ground mounted solar energy systems shall meet the accessory structure setbacks for the zoning district in which the unit is located.
- b. Ground mounted solar energy systems shall not extend beyond the side yard or rear yard setback when oriented at minimum design tilt.
- c. In addition to building setbacks, the collector surface and mounting devices for roof mounted systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector or mounting system has been engineered to safely extend beyond the edge and setback requirements are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
- d. Ground mounted SECS shall meet the required setbacks required to comply with Illinois Department of Transportation sight distance standards for roadways.

3. Reflection Angles:

- a. Reflection angles for solar collectors shall be oriented such that they do not project glare onto adjacent properties or roadways.

4. Visibility:

- a. Solar energy systems shall be located in a manner to reasonably minimize view blockage and shading for surrounding properties while still providing adequate solar access for collectors.

5. Safety :

- a. Roof or building mounted solar energy systems, excluding building integrated systems, shall allow for adequate roof access for firefighting purposes to areas upon which the panels are mounted (NFPA 1 Fire Code).
- b. All solar energy conversion system installations shall be performed by an Illinois certified installer listed with the International Code Council (ICC).

- c. Any connection to the public utility grid shall be inspected and approved by the appropriate public utility.
- d. All solar energy systems shall be maintained and kept in good working order. If it is determined by the Zoning Administrator that a solar energy system is not being maintained, kept in good working order, or is no longer being utilized to perform as intended for 6 consecutive months, the property owner shall be given 30 day notice for removal of the unit and all equipment. If the solar energy system is not removed within 30 days the Zoning Administrator shall issue a Notice of Violation in accordance with the Menard County Zoning Ordinance.

6. Approved Solar Components:

- a. Electric solar energy system components shall have a UL listing or approved equivalent. A UL listing means representative samples have been tested and meet safety standards. Solar hot water systems shall have an SRCC rating. The SRCC rating standardizes comparisons of solar thermal products.

7. Restrictions on Solar Energy Systems Limited:

- a. Consistent with 765 ILCS 165/, no homeowner's agreement, covenant, common interest community, or other contracts between multiple property owners within a subdivision of unincorporated Menard County shall prohibit or restrict homeowners from installing solar energy systems.

#### **4.01 BUILDING INTEGRATED SYSTEMS.**

Building Integrated Systems shall be permitted outright in all zoning districts.

#### **5.01 ADMINISTRATION AND ENFORCEMENT.**

The Zoning Administrator shall enforce the provisions of this section through an inspection of the SECS installation. The Zoning Administrator is hereby granted the power and authority to enter upon the premises of SECS installation at any time by coordinating a reasonable time with the operator and/or owner. Any person, firm, or cooperation who violates, disobeys, omits, neglects, refuses to comply with, or resists enforcement of any of the provisions of this section may face fines of not less than one hundred (\$100) dollars nor more than five hundred (\$500) dollars for each offense. A separate and distinct offense shall be regarded as committed each day the violation remains uncorrected.

## **6.01 FEES CHARGED FOR BUILDING PERMITS.**

The fees for processing the applications for building permits and mechanical permits shall be collected by the Zoning Administrator who shall be accountable to the County for such fees as follows:

|                           |         |
|---------------------------|---------|
| 1-10 kilowatts (kW-dc)    | \$75    |
| 11-20 kilowatts (kW-dc)   | \$150   |
| 21-50 kilowatts (kW-dc)   | \$300   |
| 51-100 kilowatts (kW-dc)  | \$500   |
| 101-500 kilowatts (kw-dc) | \$1,000 |

\*Solar Thermal Systems convert BTU to kilowatts (kW-dc)

## **7.01 PENALTIES**

A failure to obtain applicable building permit(s) for the construction of a solar energy system or failure to comply with the requirements of a building permit or the provisions of this code shall be deemed a violation of the code. The State's Attorney may bring action to enforce compliance of the requirements of this chapter by filing an action in Menard County court for an injunction requiring conformance with this chapter or seek such other order as the court deems necessary to secure compliance with this chapter.

Any person found guilty of violating, disobeying, omitting, neglecting, or resisting any provisions of this code, upon conviction thereof shall be guilty of a petty offense and shall be punished by a fine of not less than one hundred (\$100) dollars nor more than five hundred (\$500) dollars. A separate and distinct offense shall be regarded as committed each day the violation remains uncorrected.

Nothing herein shall prevent the county from seeking such other legal remedies available to prevent or remedy any violations of this code.

## **8.01 VALIDITY**

1. This ordinance shall be a supplement to, and shall not nullify or usurp any state or federal law. This ordinance shall supersede any and all resolutions or ordinances that have been passed prior, governing non-commercial SECS installation.
2. If any section, paragraph, sentence, clause or other portion of this ordinance is held or deemed to be unenforceable or invalid, then such holdings or finding of unenforceability or invalidity shall not affect the validity of the remaining provisions of this ordinance.

3. This ordinance shall become effective immediately. Be it further ordained that this ordinance be recorded in the permanent records of the Menard County Board and published according to law.

# **SOLAR ENERGY SITING ORDINANCE OF MENARD COUNTY**

A Center of Lincoln's Illinois



Adopted May XX, 2023



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## **1.01 TITLE**

This Ordinance shall be known, cited and referred to as the Menard County Solar Energy Siting Ordinance.

## **1.02 PURPOSE**

The purpose of this ordinance is to facilitate the construction, installation, and operation of Commercial Solar Energy Conversion Systems (CSECS) in Menard County in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, conservation lands, historical and other sensitive lands. This ordinance is not intended to abridge safety, health, or environmental requirements contained in other applicable codes, standards, or ordinances.

## **2.01 DEFINITIONS**

**"Applicant"** means the entity who submits to the Menard County an application for the siting and operation of any Commercial Solar Energy Facility or Substation. All references to Applicant in this Ordinance shall include Applicant's successors-in-interest and assigns, which includes a Commercial Solar Energy Facility Permittee (as defined herein),

**"Commercial Operation Date"** means the calendar date on which the Commercial Solar Energy Facility produces power for commercial sale, not including test power.

**"Commercial Solar Energy Facility"** or **"Commercial Solar Energy System"** means any device or assembly of devices that is ground installed and uses solar energy from the sun for generating electricity for the primary purpose of wholesale or retail sale and not primarily for consumption on the property.

**"Commercial Solar Energy Building Permit"** means a permit necessary for the commencement of work performed toward the construction, erection or installation of an approved Commercial Solar Energy Facility, Substation, Supporting Facilities, or operations and maintenance building in connection with a Commercial Solar Energy Facility. A Commercial Solar Energy Building Permit may be issued by the Menard County after a Commercial Solar Energy Facility has obtained a Special Use Permit from the Menard County Board and the Menard County Zoning Office determines that all conditions, if any, have been satisfied that are imposed by the Special Use Permit. The Commercial Solar Energy Building Permit shall require the Applicant to deliver a written "Notice to Proceed" for the Commercial Solar Energy Facility to the Menard County prior to commencement of construction of the Commercial Solar Energy Facility. The term "commencement of construction", as used in this Ordinance, includes any site development work (e.g., demolition, grubbing, grading, excavation, road work, construction of Project-related structures and infrastructure improvements, etc.) regarding the Commercial Solar Energy Facility.

**"Commercial Solar Energy Facility Permittee"** means an Applicant who applies for and receives a Special Use Permit under this Ordinance for the siting and operation of any Commercial Solar Energy Facility or Substation. All references to a Commercial Solar Energy Facility Permittee in this Ordinance shall include a Commercial Solar Energy Facility Permittee's successors-in-interest and assigns.

**"Financial Assurance" or "Financial Security" or "Decommission Security"** means assurance from a credit worthy party, examples of which include a surety bond (e.g., performance and payment bond), trust instrument, cash escrow, or irrevocable letter of credit.

**"Notice to Proceed"** means a written document, named as such, stating that the Applicant expresses an intent to commence construction activities on a Commercial Solar Energy Facility and identifying the date on which the construction activities are scheduled to commence.

**"Nonparticipating property"** means real property that is not a participating property. "Nonparticipating residence" means a residence that is located on nonparticipating property and that is existing and occupied on the date that an application for a permit to develop the Commercial Solar Energy Facility is filed with the Menard County.

**"Occupied community building"** means any one or more of the following buildings that is existing and occupied on the date that the application for a permit to develop the Commercial Solar Energy Facility is filed with the Menard County: a school, place of worship, day care facility, public library, or community center.

**"Operator"** means the person or entity responsible for the day-to-day operation and maintenance of a Commercial Solar Energy Facility, including any third-party subcontractors. The Operator must be a qualified solar power professional. All references to Operator in the Ordinance shall include Operator's successors-in-interest and assigns.

**"Owner"** means the person or entity or entities with an equity interest in a Commercial Solar Energy Facility, including their respective successors-in-interest and assigns. The Owner does not mean (i) the property owner from whom land is leased for locating a Commercial Solar Energy Facility (unless the property owner has an equity interest in a Commercial Solar Energy Facility); or (ii) any person holding a security interest in a Commercial Solar Energy Facility solely to secure an extension of credit, or a person foreclosing on such security interest, provided that after foreclosure, such person seeks to sell a Commercial Solar Energy Facility at the earliest practicable date. This definition includes the definition of Facility Owner as defined in 55 ILCS 5/5-12020.

**"Participating property"** means real property that is the subject of a written agreement between a facility owner and the owner of the real property that provides the facility owner an easement, option, lease, or license to use the real property for the purpose of constructing a Commercial Solar Energy Facility or supporting facilities. "Participating property" also includes real property that is owned by a facility owner for the purpose of constructing a Commercial Solar Energy Facility or supporting facilities.

**"Participating residence"** means a residence that is located on participating property and that is existing and occupied on the date that an application for a permit to develop the Commercial Solar Energy Facility is filed with the Menard County.

**"Professional Engineer"** means a qualified individual who is licensed as a professional engineer in the State of Illinois. Where a structural engineer is required to take some action under terms of this Ordinance, a Professional Engineer may serve as the structural engineer if he or she has the appropriate structural engineering certification in the State of Illinois.

**"Protected lands"** means real property that is subject to a permanent conservation right consistent with the Real Property Conservation Rights Act or registered or designated as a nature preserve, buffer, or land and water reserve under the Illinois Natural Areas Preservation Act.

**"Public Conservation Lands"** means land owned in fee title by Menard County, state or federal agencies and managed specifically for conservation purposes, including but not limited to Menard County, state and federal parks, state and federal wildlife management areas, state scientific and natural areas, and federal wildlife refuges and waterfowl protection areas. Public conservation lands do not include private lands upon which conservation easements have been sold to government agencies or non-profit conservation organizations. Public conservation lands also do not include private lands for which the owners have entered into contractual relationships with government or non-profit conservation organizations for conservation purposes.

**"Special Use Permit"** means a permit approved by the Menard County Board, after a public hearing, allowing a particular use at a specified location subject to compliance with certain specified special conditions as may be required by the Menard County Board.

**"Structural Engineer"** means a qualified individual who is licensed as a professional engineer in the State of Illinois and will analyze, design, plan, and research structural components and structural systems to achieve design goals and ensure the safety and comfort of users or occupants. Their work takes account mainly of safety, technical, economic, and environmental concerns, but they may also consider aesthetic and social factors of the WECS project.

**"Substation"** means the apparatus that collects and connects the electrical collection system of the Commercial Solar Energy Facility and increases the voltage for connection with the utility's transmission lines.

**"Supporting Facilities"** means the transmission lines, substations, access roads, storage containers, and equipment associated with the generation and storage of electricity by the Commercial Solar Energy Facility.

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

### **3.01 APPLICABILITY**

- A. This Ordinance governs the siting of CSECS and Substations that generate electricity to be sold to wholesale or retail markets.
- B. Owners of CSECS with an aggregate generating capacity of 0.5MW or less who locate the CSECS(s) on their own property are not subject to this Ordinance.

### **4.01 PROHIBITION**

- A. No Commercial Solar Energy Facility or Substation governed by this Ordinance shall be constructed, erected, installed, or located within the Menard County, unless prior siting approval has been obtained for each individual Commercial Solar Energy Facility or for a group of Commercial Solar Energy Facilities under a joint siting application pursuant to this Ordinance

### **5.01 SPECIAL USE PERMIT APPLICATION**

- A. To obtain siting approval, the Applicant must first submit a Special Use Permit application to the Menard County Zoning Office to be forwarded onto the Menard County Board of Commissioners for public hearing and approval or denial.
- B. The Special Use Permit requested by the applicant will be understood to be used across all Menard County Zoning Districts unless it is specified otherwise in the application.
- C. The Special Use Permit application shall contain or be accompanied by the following information:
  - 1. A Commercial Solar Energy Facility Summary, including, to the extent available:
    - a. a general description of the project, including
      - i. its approximate overall name plate generating capacity,
      - ii. the potential equipment manufacturer(s),
      - iii. type(s) of solar panels, cells and modules,
      - iv. the number of solar panels, cells and modules,
      - v. the maximum height of the solar panels at full tilt,
      - vi. the number of Substations,

- vii. a project site plan, project phasing plan and project construction timeline plan, and
    - viii. the general location of the project; and
    - ix. transmission location – both above and below ground;
  - b. a description of the Applicant, Owner, and Operator, including their respective business structures;
2. The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s), if known, and documentation demonstrating land ownership or legal control of the property;
  3. A site plan for the CSECS Project showing the planned location of each CSECS panel array, including legal descriptions for each site, GPS coordinates of each CSECS panel array, and anchor bases (if any), Participating and Non-participating Residences, Occupied Community Buildings parcel boundary lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, Substation(s), operations and maintenance buildings, electrical cabling from the CSECS to the Substation(s), ancillary equipment, third party transmission lines, the location of any wetlands, flood plain, drainage structures including surface ditches and subsurface drainage lines, underground mines, scenic and natural areas within one thousand five hundred (1,500) feet of the proposed CSECS, the location of all known communications towers within two (2) miles of the proposed CSECS, and the layout of all structures within the geographical boundaries of any applicable setback;
  4. All determinations of No Hazard and Hazard to Air Navigation from the Federal Aviation Administration;
  5. A proposed Decommissioning Plan for the CSECS Project including cost estimations;
  6. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance;
  7. An Agricultural Impact Mitigation Agreement (AIMA) executed between the Applicant and the Illinois Department of Agriculture;
  8. The topographic map shall include the CSECS Project site and the surrounding area;

9. Any other information normally required by the Menard County as part of its permitting requirements for siting buildings or other structures;
  10. Results and recommendations from the Illinois Dept. of Natural Resources obtained through the Ecological Compliance Assessment Tool or a comparable successor tool.
  11. Results of the United States Fish and Wildlife Service's Information for Planning and Consulting environmental review or a comparable successor tool that is consistent with the United States Fish and Wildlife Service's Land-Based Solar Energy Guidelines.
  12. Information demonstrating that the CSECS Project will avoid protected lands.
  13. All required Utility permitting to be issued pursuant to the Menard County Highway Policy.
  14. Any other information requested by the Menard County or the Menard County consultants that is necessary to evaluate the siting application and operation of the CSECS Project and to demonstrate that the CSECS Project meets each of the regulations in this Ordinance, including the Special Use Permit standards set forth below.
- D. Material changes to the application are not permitted once the notice of the public hearing has been published, unless requested or permitted by the Menard County Zoning Office; and the Menard County Board.
- E. The Applicant shall submit Twenty-five (25) copies of the Special Use Permit application to the Menard County, and at least one (1) copy in electronic format.

## **6.01 DESIGN AND INSTALLATION.**

### Design Safety Certification

1. CSECSs shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI"). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories ("UL"), or an equivalent third party. All solar panels, cells, and modules; solar panel mounts and racking, including any helical piles, ground screws, ballasts, or other anchoring systems shall be new equipment commercially available; no used or experimental

equipment shall be used without the approval of a variance by the Menard County Board.

2. CSECS(s) shall conform to applicable industry standards, including:

- National Electrical Safety Code (NESC)
- National Electric Code (NEC)
- National Fire Protection Agency (NFPA)
- Occupational Safety and Health Administration (OSHA)
- American Society of Testing and Materials (ASTM)
- Institute of Electrical and Electronic Engineers (IEEE)
- International Electrotechnical Commission (IEC)
- American Society of Civil Engineers (ASCE)
- American Concrete Institute (“ACI”)
- United States Environmental Protection Agency (EPA)
- National Electrical Testing Association (NETA)
- Underwriter’s Laboratories (UL)
- American National Standards Institute ("ANSI")

3. Following the granting of siting approval under this Ordinance, a structural engineer shall certify, as part of the CSECS Building Permit application process, that the design of the Commercial Solar Energy Facility is within accepted professional standards, given local soil, subsurface and climate conditions.

B. Electrical Components

All electrical components of the CSECS shall conform to applicable local, state, and national codes, and relevant national and international standards (e.g., ANSI and International Electrical Commission).

C. Height

1. No component of a solar panel, cell or modules may exceed twenty (20) feet in height above the ground at full tilt.

D. Aesthetics and Lighting

The following items are recommended standards to mitigate visual impact:

1. Vegetative Screening: A vegetative screen shall be provided for any part of the Commercial Solar Energy Facility that is visible to Non-participating Residence. The landscaping screen shall be located

between the required fencing and the property line of the participating parcel upon which the facility sits. The vegetative screening shall include a continuous line of native evergreen foliage and/or native shrubs and/or native trees and/or any existing wooded area and/or plantings of tall native grasses and other native flowering plants.

2. Lighting: If lighting is provided at the Commercial Solar Energy Facility, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel.
3. Intra-project Power and Communication Lines: All power lines used to collect power from individual CSECSs and all communication lines shall be buried underground at a depth in accordance with the Agricultural Impact Mitigation Agreement until same reach the property line or a substation adjacent to the property line.

E. Fencing

1. A fence of at least six (6) feet and not more than twenty-five (25) feet in height shall enclose and secure the Commercial Solar Energy Facility.

F. Warnings

1. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations, and at all entrances to the CSECS facility.
2. Visible, reflective, colored objects, such as flags, plastic sleeves, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of fifteen (15) feet from the ground.

G. Setback Requirements

1. The Commercial Solar Energy Facility shall be sited as follows, with setback distances measured from the nearest edge of any component of the facility:
  - i. Occupied Community Buildings and Dwellings on Nonparticipating Properties: one hundred fifty (150) feet to the nearest point on the outside wall of the structure.
  - ii. Nonparticipating Residences: one hundred fifty (150) feet to the nearest point on the outside wall of the structure.
  - iii. Boundary Lines of Participating Property: None.

- iv. Boundary Lines of Nonparticipating Property: fifty (50) feet to the nearest point on the property line of the nonparticipating property.
- v. Public Road Rights-of-Way: fifty (50) feet the nearest edge of the public road right-of-way.

#### H. Compliance with Additional Regulations

- 1. Menard County municipalities may solely require pre-annexation/annexation agreements and shall regulate CSECS(s) (65 ILCS 5/11-13-26) within the 1.5-mile planning jurisdiction.

Municipal CSECS: CSECS(s) that are proposed to be located on lands within the 1.5-mile radius of an incorporated municipality's zoning jurisdiction shall seek zoning and building approval from said municipality.

**a.** Prior to the start of any construction or ground work, the facility owner must either:

- 1. Present documentation that the proposed site is the subject of an approved pre-annexation agreement, and facilitate the creation of an Intergovernmental Agreement between the municipality and the County identifying that the municipality will be taking full jurisdiction over the project site and affected properties for the life of the project; or
- 2. Present documentation that the proposed site has been the subject of an annexation into the municipality.

- 2. Nothing in this Ordinance is intended to preempt other applicable state and federal laws and regulations.

#### I. Use of Public Roads

- 1. An Applicant proposing to use any County, municipality, township, or village road(s) for the purpose of transporting CSECS(s) or Substation parts, infrastructure and/or equipment for construction, operation, or maintenance of the CSECS(s) or Substation(s) shall follow the Menard County Road Use Agreement executed with the Menard County Engineer and applicable Road District Commissioner. The Applicant shall notify the Menard County Engineer of need to use roads and associated infrastructure when performing replacement of infrastructure and shall:
  - i. Identify all such public roads; and

- ii. Obtain applicable weight and size permits from relevant government agencies prior to construction.
- 2. To the extent an Applicant must obtain a weight or size permit from the Menard County, municipality, township or village, the Applicant shall:
  - i. Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage and the need for pre-construction modifications and improvements on existing roadways; and
  - ii. Any proposed public roads that will be used for construction purposes shall be identified and approved in writing by the respective Road District Commissioner and the County Engineer prior to the granting of the Special Use Permit. Traffic for construction purposes shall be limited to these roads. All overweight and/or oversized loads to be transported on public roads may require a permit from the respective highway authority. Any road damage caused by the transport of the facility's equipment, the installation, maintenance, or removal must be completely repaired to the reasonable satisfaction of the Road District Commissioner and the County Engineer. The Road District Commissioner and County Engineer may choose to require either remediation of road repair upon completion of the WECS Project or are authorized to collect fees for overweight and/or oversized load permits. Further, financial assurance in an amount to be fixed by the Road District Commissioner and/or the County Engineer to ensure the Road District or the County that future repairs are completed to their reasonable satisfaction shall be provided. Applicant shall submit a draft form of said financial assurance with application for Special Use Permit with the Menard County Zoning Office.
  - iii. Enter into a road use agreement with the Menard County and each affected Road District that includes the following provisions, at a minimum:
    - i. Project layout map;
    - ii. Transportation impact analysis;
    - iii. Pre-construction plans;
    - iv. Project traffic map;
    - v. Maximum hauling weight loads per roadway;
    - vi. Project scope of repairs;
    - vii. Post-construction repairs;
    - viii. Insurance;

- ix. Financial Security in forms and amounts acceptable to Menard County;

The road use agreement shall require the Applicant to be responsible for the reasonable cost of improving roads used to construct CSECS and the reasonable cost of repairing roads used by the facility owner during construction of the CSECS so that those roads are in a condition that is safe for the driving public after the completion of the CSECS construction. Roadways improved in preparation for and during the construction of the CSECS shall be repaired and restored to the improved condition at the reasonable cost of the developer if the roadways have degraded or were damaged as a result of construction-related activities.

1. Any road not shown as being initially utilized for hauling and/or construction traffic, but is noted to have hauling and/or construction traffic on it during construction for a total of two (2) offenses, will then be included into the schedule of initially noted haul routes scheduled for repair and maintenance.
3. All repairs and improvements to Menard County and Road District public roads and roadway appurtenances shall be subject to the prior approval of the Menard County Board of Commissioners before being made and shall also be subject to inspection and acceptance by the Menard County Engineer and Road District Commissioner after such repairs and improvements are completed. The Menard County and Road District's Road Use Agreement, and any further agreements contemplated therein, regarding the maintenance and repair of Menard County and Road District public roads and highways, must be approved by the Menard County Board of Commissioners and respective Road Commissioner prior to the Board's approval of any CSECS Building Permit applications related to the construction of the proposed WECS Project.

J. Site Assessment

To ensure that the subsurface conditions of the site will provide proper support for the CSECS Towers and soil restoration, the Applicant, at its expense, shall provide soil and geotechnical boring reports and stamped engineering reports regarding mine subsidence possibilities to the County Engineer with respect to each CSECS Tower location as part of its CSECS Special Use Permit application. The Applicant shall follow the guidelines for Conservation Practices Standards and Natural Resource Inventory Report submitted by the Menard County Soil and Water Conservation District (or equivalent regulatory agency). The Applicant shall submit grading plans for the proposed Substations and any related infrastructure for review and comment by the Menard County Soil and Water Conservation District. The grading plans shall be a public record and shall be submitted

as part of the Special Use Permit application for the issuance of any CSECS Building Permit for the construction of said substations.

K. Agricultural Impact Mitigation

Pursuant to 505 ILCS 147/15(a), the Applicant, at its expense, shall enter into an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture prior to any public hearing required before a siting decision on the CSECS Project application. All impacted agricultural land, whether impacted during construction, operation, or decommissioning activities, must, at a minimum, be remediated by the Applicant pursuant to the terms of the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture. The Applicant shall submit the executed Agricultural Impact Mitigation Agreement to the Menard County Board of Commissioners as part of the Special Use Permit application.

L. Avian and Wildlife Impact Study

The Applicant, at its expense, shall have a third party, qualified professional (after submission and approval of resume and relevant work experience) conduct an avian and wildlife impact study and submit said study to the County as part of the Special Use Permit application. Each WECS or WECS Project shall be located, designed, constructed, and operated to avoid and if necessary, mitigate, the impacts to wildlife. The Applicant will comply with all applicable avian and wildlife protection rules and regulations including:

1. Endangered Species Act (protects federally listed threatened and endangered species) (16 U.S.C. §§1531 et seq.)
2. Illinois Endangered Species Protection Act (“IESPA”) (520 ILCS 10)
3. Migratory Bird Treaty Act (“MBTA”) (16 U.S.C. §§ 703-712), and
4. Bald and Golden Eagle Protection Act (“BGEPA”) (16 U.S.C. 668-668d and 50 Code of Federal Regulation [CFR] 22.26)

M. Illinois Environmental Protection Agency Impact Study

The Applicant, at its expense, Illinois Environmental Protection Agency conduct water impact studies and submit said studies to the County as part of the Special Use Permit application. Each WECS or WECS Project shall be located, designed, constructed, and operated to avoid and if necessary, mitigate, the impacts to water under Section 401 of the Clean Water Act, and Section 402 - National Pollutant Discharge Elimination (NPDES) Permit of Construction Site Activities.

N. Coal Mine – Mine Subsidence Study

The Applicant, at its expense, shall have a third party, a qualified professional engineer licensed in the State of Illinois (after submission of resume and relevant work experience) conduct a Coal Mine – Mine Subsidence impact study and submit said study to the Menard County Board of Commissioners as part of the Special Use Permit application. Each CSECS or CSECS Project shall be located, designed, constructed, and operated to avoid siting over active or inactive mine areas.

O. Historical Impact Study

The Applicant, at its expense, shall have a third party, qualified professional (after submission of resume and relevant work experience) conduct an historical impact study and submit said study to the Menard County Board of Commissioners as part of the Special Use Permit application. Each CSECS or CSECS Project shall be located, designed, constructed, and operated so as to avoid and if necessary, mitigate, the impacts to rich historical history of Menard County.

P. As-Built Map and Plans

Within sixty (60) calendar days of completion of construction of the CSECS Project, the Applicant or Operator shall deliver 2 (two) sets of "as-built" maps, including all CSECS towers, driveways, substations, replaced drainage structures and all transmission (above and below ground) in the site plan and engineering plans for the CSECS Project that have been signed and stamped by a Professional Engineer and a licensed surveyor in the State of Illinois, with 1 (one) set being in an electronic format.

Q. Engineer's Certificate

The CSECS Project engineer's certificate shall be completed by a structural engineer or Professional Engineer licensed in the State of Illinois, and shall certify that the specific soils and subsurface conditions at the site can support the apparatus, given local soil, subsurface and climate conditions. The Commercial Solar Energy Facility engineer's certificate shall be a public record and shall be submitted as part of the Special Use Permit application.

R. Conformance with Approved Application and Plans

1. The Applicant shall construct and operate the CSECS Project in complete conformance with the construction plans contained in a

Menard County approved submitted Special Use Permit application(s), conditions placed upon the operation of the Facility, this ordinance and all applicable state, federal and local laws and regulations unless otherwise submitted and approved by Menard County.

2. The Applicant shall be bound by all proposals and representations made under oath at the public hearing before the Menard County Board of Commissioners, which shall be considered supplementary conditions of the Special Use Petition granted by the Menard County Board of Commissioners, even if not directly specified herein.

S. Additional Terms and Conditions

1. All technical submissions as defined in the Professional Engineering Practice Act of 1989 (225 ILCS 325/4(w)) and contained in the Special Use Permit Application shall be prepared and signed by an Illinois Professional Engineer (or structural engineer) for the relevant discipline.
2. The Menard County may retain a qualified independent code inspector or professional engineer both to make appropriate inspections of the CSECS Project during and after construction and to consult with the Menard County to confirm that the construction, substantial repair, replacement, repowering and/or decommissioning of the CSECS Project is performed in compliance with applicable electrical and building codes. The cost and fees so incurred by the Menard County in retaining said inspector or engineer shall be reimbursed by the Applicant of the CSECS Project within thirty (30) days of the presentation of invoice.
3. The Applicant shall provide locked metal gates or a locked chain are installed at the access road entrances of all the CSECS facilities. An exception may be made when the landowner has filed a written statement with the Menard County which states that the owner does not want a locked metal gate installed and has provided a signed liability waiver to the Menard County.
4. The Special Use Permit granted to the Applicant shall bind and inure to the benefit of the Applicant, its successors-in-interest and assigns. If any provision in this Ordinance, or conditions placed upon the operation of the CSECS Facility is held invalid, such invalidity shall not affect any other provision of this Ordinance that can be given effect without the invalid provision and, to this end, the provisions in this Ordinance are severable.

5. The Applicant shall provide an executed road use agreement to the Menard County Board of Commissioners between the Applicant and the appropriate governing road and highway jurisdictions or the Illinois Department of Transportation to the Menard County and Road District showing approved entrances, construction access, and haul routes prior to the issuance of any CSECS Building Permit or prior to construction of the CSECS Project.
6. Treatment of Existing Drainage Tile shall be the responsibility of the CSECS Owner to notify the Menard County Engineer if the construction of any part of the project encounters underground field drainage tiles. A plan sufficient to provide remediation shall be submitted, reviewed, and approved by the Menard County Engineer. All existing drainage tiles that will be crossed by private access roads shall be removed and replaced with a load resistant tile as specified by the Menard County Engineer. This shall be done before the private access roads are used for construction purposes. The load resistant tile shall extend a minimum of 30 feet across any private access roads and shall be of the same diameter of the existing tile. To ensure that all drainage tiles have been located, reasonable measures should be made to locate all existing tile in the vicinity of the private access roads by exploratory trench or other appropriate methods. All drainage tile that are encountered during construction shall be noted on the site plan.
7. The Applicant shall provide from U.S. Environmental Protection Agency (EPA) a completed Spill Prevention Control and Countermeasures (SPCC Plan). The Applicant shall submit the executed SPCC Plan to the Menard County Board of Commissioners as part of the Special Use Permit application to be implemented in coordination and at the time of Issue for Construction design documents.
8. The Applicant shall notify the County of any material changes to the information provided in subsections that occur prior to the issuance of a building permit.
  - a) The Applicant shall not commence construction activity associated with the CSECS Project before 6:00 A.M. nor continue past 9:00 P.M. on any day of the week within one-quarter ( $\frac{1}{4}$ ) of a mile of any non-participating landowner unless a waiver is obtained from such landowner.
  - b) Prior to issuance of a building permit, the Applicant shall provide documentation to the Menard County Zoning

Administrator specifications for the CSECS equipment chosen for the Project.

9. c) The Applicant shall commence construction of the CSECS Project within thirty-six (36) months of the date of the Special Use Petition approval by the Menard County Board of Commissioners. After construction is complete, the Petitioner shall provide certified “as-built” drawings to the Menard County Zoning Administrator and the Menard County Assessor showing the locations of the CSECS Turbines and a legal description of the land utilized for the improvements. The Special Use Permit shall thereafter automatically be modified to limit the legal description of the area of the Special Use Petition to the land utilized for the improvements.

## **7.01 OPERATION.**

### **A. Maintenance**

1. Annual Report. The Applicant (CSECS Permittee) shall submit, to the Menard County Department of Zoning on the first Monday of May of each year following CSECS project approval by the Menard County Board of Commissioners, a report regarding CSECS maintenance and operation. This report contains the following information:
  - (i) a general description of any physical repairs, replacements or modification(s) to the CSECS and/or its infrastructure;
  - (ii) complaints pertaining to setbacks, noise, shadow flicker, appearance, safety, lighting and use of any public roads received by the Applicant concerning the CSECS and the resolution of such complaints;
  - (iii) calls for emergency services, including the nature of the emergency and how it was resolved;
  - (iv) status of liability insurance; and
  - (v) Any other information that the Menard County might reasonably request.
  - (vi) a general summary of service calls to the CSECS. Failure to provide the annual report shall be considered a material violation of this Ordinance and subject to Article 10.01 (Administration and Enforcement).
2. Within ninety (90) days of the receipt of this annual report, the Menard County department of zoning shall review it, conduct an on-site field review of the CSECS project, and within one hundred twenty (120) days of the receipt of the report, provide a summary of the report and its on-site field review to the Menard County Board of Commissioners.

3. The department of zoning shall charge a fee for this annual review in the amount of no more than two hundred fifty dollars (\$250.00) per CSECS project area facility. This fee shall be provided to the department of zoning by the CSECS applicant, owner and/or operator at the time of annual report submission. Failure to provide the annual report and required fee shall be considered a cessation of operations.
4. The applicant, owner and/or operator of a CSECS project shall provide that the Menard County Department of Zoning have access to the CSECS project site for the purposes described in [Section] 7.01(A)(2) above. Failure to provide access shall be deemed a violation of the Special Use Permit.
5. Re-Certification. Any physical modification to the CSECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification under Article 6.01 Design and Safety Certification section, paragraph 1, of this Ordinance. Like-kind replacements and modifications that are made in the ordinary course of operations, including expected repairs and warranty items, shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement or other modifications made in the ordinary course of operations), the Applicant shall confer with a relevant third-party certifying entity identified in Article 6.01 Design and Safety Certification section, paragraph 1, of this Ordinance to determine whether the physical modification requires re-certification.

B. Coordination with Emergency Responders:

1. The Applicant shall submit to the local emergency responders a copy of the Site Plan, Standard Operating Procedures (SOPs) and Standard Operating Guidelines (SOGs), and any amendments to such documents, for the Solar power facility so that the local law enforcement, fire protection district and rescue units, emergency medical service providers, and emergency management service providers that have jurisdiction over each tower site may evaluate and coordinate their emergency response plans with the Applicant of the CSECS Project.
2. The Applicant, at its expense, shall provide annual training for, and the necessary equipment to, the Operator and local emergency response authorities and their personnel so that they can properly respond to a potential emergency at the CSECS Project. Special equipment to be provided includes, but is not limited to, key access (Knox) boxes, and permanently installed rescue equipment such as winches, pulleys, harnesses, etc.

3. The Applicant and the Operator shall cooperate with all local emergency responders to develop an emergency response plan. The plan shall include, at a minimum, 24-hour contact information (names, titles, email addresses, cell phone numbers) for the Applicant and the Operator and at least three (3) designated CSECS Project representatives (a primary representative with two (2) alternate representatives, each of whom are on-call "24 hours per day / 7 days per week 365 days per year"). Any change in the designated CSECS Project representative or his/her contact information shall be promptly communicated to the Menard County Board of Commissioners in writing. The content of the emergency response plan, including the 24-hour contact information, shall be reviewed and updated on an annually basis.
4. Nothing in this section shall alleviate the need to comply with all other applicable life safety, fire / emergency laws and regulations.
5. Any emergency work or response required in direct response to the CSECS project or individual CSECS array, will be billed directly to the developer outside of the scope of the Special Use Permit pursuant to (70 ILCS 705/11f) for local responders. Any specialized operation requiring municipal responders, response will be billed per their standard base rate of their agency.

C. Water, Sewer, Materials Handling, Storage and Disposal

1. All solid wastes related to the construction, operation and maintenance of the CSECS shall be removed from the site promptly, and disposed of in accordance with all federal, state and local laws.
2. All hazardous materials related to the construction, operation and maintenance of the CSECS shall be handled, stored, transported, and disposed of in accordance with all applicable local, state and federal laws.
3. The CSECS Project shall comply with existing septic and well regulations as required by the Menard County Public Health Department, The Sangamon Menard County Department of Public Health and the State of Illinois Department of Public Health.

D. Signage

Signage regulations are to be consistent with ANSI standards. A reasonably visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations, and at all entrances to and at all entrances to the Commercial Solar Energy Facility.

E. Aviation Safety

The Applicant shall not locate a CSECS facility to create an airport hazard or obstruction to any existing airport, restricted landing area or heliport pursuant to Illinois Administrative Code Title 92: Transportation, Chapter I: Department of Transportation, Subchapter b: Aeronautics Part 14 Aviation Safety.

F. Drainage Systems

The Applicant at its expense will repair, within 90 days after a complaint is filed, all waterways, drainage ditches, agricultural drainage systems, field tiles, or any other private and public infrastructure improvements damaged during construction, maintenance, and operation phases of the CSECS Project in accordance with the Agricultural Impact Mitigation Agreement and the IDOA Drain Tile Repair schedule figures 1-2. (See Appendix (3))

G. Complaint Resolution

The Applicant shall, at its expense and in coordination with the County, develop a system for logging and investigating complaints related to the CSECS Project. The Applicant shall resolve such non-emergency complaints on a case-by-case basis and shall provide written confirmation to the Menard County Zoning Office. All costs and fees incurred by the County in resolving or attempting to resolve complaints shall be reimbursed by the Applicant of the CSECS Project. The Applicant shall also designate and maintain for the duration of the CSECS Project either a local telephone number or a toll-free telephone number and an email address as its public information inquiry / and complaint "hotline" which shall be answered by a customer service representative on a 24/7 basis. The Applicant shall post the telephone number(s) and email address(es) for the customer service representative(s) in a prominent, easy to

find location on their websites and at the CSECS Project site on signage.

#### **8.01 LIABILITY INSURANCE AND INDEMNIFICATION.**

Commencing with the issuance of a CSECS Building Permit, the Applicant shall maintain a current general comprehensive liability policy and automobile liability coverage covering bodily injury, death and illness, and property damage with limits of at least Twenty Million Dollars (\$20,000,000.00) per occurrence and in the aggregate; and shall further maintain the above-stated lines of insurance from delivery of the "Notice to Proceed" by the Applicant under the turbine supply and/or balance of plant construction contract(s) for the CSECS Project in coverage amounts of at least Twenty Million Dollars (\$20,000,000.00) per occurrence and Fifty Million Dollars (\$50,000,000.00) in the aggregate during the life of the CSECS Project. The Applicant shall file the original certificate of insurance upon commencement of project construction prior to the issuance of a CSECS Building Permit, corresponding policies, and endorsements to be provided within sixty (60) days of issuance, and at each subsequent renewal, at least annually thereafter. Additionally, the Applicant shall name Menard County and its agents as an additionally insured participant on all policies.

The Applicant (CSECS Permittee) shall defend, indemnify and hold harmless the Menard County and its officers, appointed and elected officials, employees, attorneys, engineers and agents (collectively and individually the "Indemnified Parties") from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney's fees relating to or arising out of the issuance of the Special Use Permit or the construction, operation, maintenance, and removal of the CSECS and affiliated equipment including, without limitation, liability for property damage or personal injury (including death or illness), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence) or any acts or omissions of the Applicant (CSECS Permittee), the Owner or the Operator under this Ordinance or the Special Use Permit except to the extent any such claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities arise from the negligence or intentional acts of such Indemnified Parties. This general indemnification shall not be construed as limiting or qualifying the Menard County's other indemnification rights available under the law.

#### **9.01 DECOMMISSIONING AND SITE RECLAMATION PLAN REQUIRED.**

The Applicant (or Owner, if different from Applicant) must submit a Decommissioning Plan with cost estimation to the Menard County as part of the siting application and provide testimony supporting the calculation of costs provided in said plan during the public hearing on the application. Prior to receiving any building permit for the Commercial Solar Energy Facility, the Applicant or Owner shall provide a Decommissioning Agreement and post the required Financial

Assurances for the benefit of Menard County with the Treasurer of Menard County. The Decommissioning Agreement and Financial Assurances shall comply with 55 ILCS 5/5-12020. Periodically, and as required by the Agricultural Impact Mitigation Agreement, the Owner must update the Decommissioning Plan, cost estimations and provide updated Financial Assurances to the benefit of Menard County. That plan shall include:

1. A Memorandum of Understanding with property owners of each CSECS facility, that if decommissioning fees exceed what has been assured through the decommissioning financial plan, property owners shall be liable for remaining costs.
2. Provisions for the removal of structures, debris and cabling on the surface and at least five (5) feet below the surface, and the sequence in which removal is expected to occur;
3. Provisions for the restoration of the soil and vegetation;
4. An estimate of the decommissioning costs certified by a professional engineer in current dollars. The engineer providing this estimate shall be engaged under contract by the Menard County Engineer and all costs associated with this engagement shall be borne by the applicant;
5. A financial plan approved by The Menard County Board of Commissioners to ensure funds will be available for decommissioning and land restoration. The applicant shall provide the Menard County with a new estimate of the cost of decommissioning the CSECS project every five (5) years under the same conditions as set forth in the Agricultural Impact Mitigation Agreement. Upon receipt of this new estimate, the Menard County may require, and the applicant, owner and/or operator of the CSECS project shall provide, a new financial plan for decommissioning acceptable to the Menard County. Failure to provide an acceptable financial plan shall be considered a cessation of operations;
6. A provision that the terms of the decommissioning plan shall be binding upon the owner or operator and any of their successors, assigns, or heirs; and
7. A provision that Menard County shall have access to the site and to the funds outlined above to effect or complete decommissioning one (1) year after cessation of operations.

#### **10.01 ADMINISTRATION AND ENFORCEMENT.**

- A. The Applicant's failure to materially comply with any of the provisions under the Special Use Permit, any conditions imposed on the project, and/ or failure to comply with any law or regulation, shall be a default and shall be grounds for revocation of the Special Use Permit by the Menard County Board within Forty-five (45) days.
- B. Prior to implementation of the applicable Menard County procedures for the resolution of default(s), the Menard County Board of Commissioners must first provide written notice to the Applicant and Operator setting forth the alleged

default(s), and provide an opportunity for the Applicant or the Operator to cure the default(s) within a thirty (30) calendar day period from the date of the notice. Should the Applicant commence the cure within that 30-day cure period and diligently pursues a cure, then the Applicant shall receive an additional sixty (60) days to continue to pursue the cure before the Menard County pursues procedures for the resolution of default. If the default relates to a life safety issue or interference with local government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, the Applicant or the Operator shall take all necessary and available commercial measures to immediately cure the default. If the Applicant or Operator cannot cure the default(s) or resolve the alleged default(s) within the cure period, then applicable Menard County ordinance provisions addressing the resolution of such default(s) shall govern.

## **11.01 FEE SCHEDULE AND PERMITTING PROCESS.**

### **1. Application Fees**

- a. Prior to processing any Application for a Commercial Solar Energy Facility, the Applicant must submit a certified check to the Menard County Zoning Office for the Application Fee equal to five thousand dollars (\$5000) per megawatt MW of nameplate capacity plus one thousand dollars (\$1000) per additional MW of nameplate capacity, up to a maximum fee of one million dollars (\$1,000,000.00) These funds shall be placed in an FDIC insured account and will be used to cover the county's cost incurred in processing the Application.
- b. Should the actual costs to the Menard County exceed the submitted Application Fee, the Applicant shall be responsible for those additional costs and shall remit additional funds to the Menard County within 15 days of receipt of a request from the Menard County. No hearings on an Application shall be conducted nor final decisions rendered on an Application if there are Application fees due to the Menard County.
- c. Any unused amounts of the Application Fee shall be refunded to the Applicant within six months of the Menard County Board rendering a final decision on the matter, unless any pending litigation, disputes, or negotiations involving Menard County exist regarding the Commercial Solar Energy Facility, in which case any amounts owed to the Applicant shall be refunded within six months of the conclusion of the litigation, disputes, or negotiations. An Applicant may request any unused Application Fee be applied toward the Building Permit Fees for the Facility.

## 2. Building Permit Fees

- a. Prior to the issuance of building permits, the Building Permit Applicant must submit a certified check to the Menard County Zoning Office for a Building Permit Fee equating to eight thousand dollars (\$8000) per megawatt MW of nameplate capacity plus one-thousand dollars (\$1000) per additional MW of nameplate capacity. If the total nameplate capacity is less than 1 MW, the building permit fee shall be reduced pro rata.

## 3. All Costs to be Paid by Applicant or Owner

In addition to all fees noted above, the Applicant or Owner shall pay all costs incurred by Menard County, including but not limited to those costs associated with all offices and departments, boards, and commissions of the Menard County as well as third-party costs incurred by the Menard County. This includes, but is not limited to, the direct or indirect costs associated with the hearing, permitting, operations, inspections, decommissioning, litigation, disputes, and/or negotiations.

4. Due to the complexity of the project and the information submitted, it shall be reviewed by a committee consisting of one or more representatives from:

- (i) Menard County Departments of Zoning
- (ii) Menard County Planning Commission;
- (iii) Menard County Engineer;
- (iv) Menard County Road Commissioner affected
- (v) Menard County Drainage District Commissioner affected
- (vi) Menard County Emergency Telephone System;
- (vii) Menard County Coordinator;
- (viii) Menard County State's Attorney;
- (ix) Applicable Fire Protection District;

- a. Due to the complexity of the project and the information submitted for review, Menard County may charge the CSECS project applicant, owner and/or operator for the cost of any special analytic or other review needs deemed by the committee to be reasonably necessary and incidental to adequate and timely review.

- b. If the committee determines that all requirements of the ordinance have been met, the zoning administrator shall issue a certificate of compliance. The building permit may be reviewed at the same time.

## **11.02 VARIATIONS**

The Menard County Zoning Office and The Menard County Board of Commissioners may permit variations to the regulations of this ordinance but shall do so only when the granting of such a variation would be in harmony with the ordinance's general purpose and intent and may vary them only in specific instances where there would be practical difficulties or hardships in the way of carrying out the strict letter of the regulations of this ordinance.

## **12.01 HEARING FACILITATOR**

The Menard County may engage the services of a hearing facilitator. The hearing facilitator shall be an independent contractor who shall conduct a hearing in accordance with all applicable rules of the board and the Menard County but has no adjudicatory responsibility other than ruling on requests for continuances, procedural matters, admissibility of evidence, and the propriety of any arguments.

The hearing facilitator shall be an attorney licensed to practice in the State of Illinois. The Applicant shall reimburse the Menard County for the fees and costs charged by the facilitator.

## **13.01 HEARING FACTORS**

The Menard County Board may approve a Commercial Solar Energy Facility Special Use Permit application if it finds the evidence complies with state, federal and local law and regulations, and with the standards of this zoning code including the factors listed below. The factors below are applied as a balancing test, not individual requirements to be met.

- a. The establishment, maintenance or operation of the CSECS Project will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;
- b. The CSECS Project will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values of surrounding properties;
- c. The establishment of the CSECS Project will not impede the normal and orderly development and improvement of the surrounding properties;
- d. Adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided;

- e. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
  - f. The proposed CSECS Project is not contrary to the objectives of the current comprehensive plan of the Menard County (if any); and
  - g. The CSECS Project shall, in all other respects, conform to the applicable regulations of this Ordinance and the zoning district in which it is located (if a zoning ordinance is in effect), except as such regulations may, in each instance, be modified pursuant to the recommendations of and approved by the Menard County Board.
1. Special Use Permit Conditions and Restrictions. The Menard County Board may stipulate conditions, guarantees and restrictions, upon the establishment, location, construction, maintenance, and operation of the CSECS Project as are deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements of this Ordinance.
  2. Revocation.
    - a. In any case where a Special Use Permit has been approved for a CSECS Project, the Applicant shall apply for a CSECS Building Permit from the Menard County and all other permits required by other government or regulatory agencies to commence construction, and commence and actively pursue construction of the Project within thirty-six (36) months from the date of the granting of the Special Use Permit. If the Applicant fails to apply for a CSECS Building Permit from the Menard County and all other permits required by other government or regulatory agencies prior to construction, and/or fails to commence and actively pursue construction of the Project within the thirty-six (36) month period, then without further action by the Menard County Board the Special Use Permit authorizing the construction and operation of the CSECS Project shall be automatically revoked and void. Upon written request supported by evidence that the Applicant has diligently pursued issuance of all necessary government and regulatory permits for the Project required to commence construction and that any delay in commencement of construction of the Project is due to conditions out of his/her/its control, the Menard County Board, in its sole discretion, may extend the above thirty-six (36) month period by passage of an ordinance that amends the Special Use Permit.

- b. The Special Use Permit shall be subject to revocation if the Applicant dissolves or ceases to do business, abandons the CSECS Project, or the CSECS ceases to operate for more than twelve (12) consecutive months for any reason.
  - c. Subject to the provisions of Article 10.01(A), a Special Use Permit may be revoked by the Menard County Board if the CSECS Project is not constructed, installed, and/or operated in substantial conformance with the Menard County-approved Project plans, the regulations of this Ordinance and the stipulated Special Use Permit conditions and restrictions.
- 3. Transferability: Owner or CSECS Permittee. The Applicant shall provide written notification to the Menard County Board At least Ninety (90) days prior to any change in ownership of a CSECS Project of any such change in ownership. The phrase "change in ownership of a CSECS Project" includes any kind of assignment, sale, lease, transfer, or other conveyance of ownership or operating control of the Applicant, the CSECS Project, or any portion thereof. The Applicant or successors-in-interest or assignees of the Special Use Permit, as applicable, shall remain liable for compliance with all conditions, restrictions, and obligations contained in the Special Use Permit, the provisions of this Ordinance, and applicable Menard County, state and federal laws.
- 4. Modification. Any modification of a CSECS Project that alters or changes the essential character or operation of the CSECS Project in a way not intended at the time the Special Use Permit was granted, or as subsequently amended, shall require a new Special Use Permit. The Applicant or authorized representative, shall apply for an amended Special Use Permit prior to any modification of the CSECS Project.

**Permit Effective Date: The Special Use Permit shall become effective upon approval of the Ordinance by the Menard County Board.**

#### **14.01 INTERPRETATION**

The provisions of these regulations shall be held to the minimum requirements adopted for the promotion and preservation of public health, safety, and general welfare of Menard County. These regulations are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or laws of Menard County nor conflict with any statutes of the State of Illinois.

### **15.01 SEVERABILITY**

If any section, paragraph, clause, phrase or part of this Ordinance is for any reason held invalid by any court or competent jurisdiction, such decision shall not affect the validity of the remaining provisions of these regulations.

### **16.01 EFFECTIVE DATE**

This Ordinance shall be in full force and effect from and after its passage, publication, and approval as required by law.

### **17.01 APPENDIX**

- (1) Agricultural Impact Mitigation Agreement – Construction of a Commercial Solar Energy Facility
- (2) IDOA Decompaction Stds A-B
- (3) IDOA Drain Tile Repairs, Figures 1-2
- (4) Sample Legal Notice

# **WIND ENERGY SITING ORDINANCE OF MENARD COUNTY**

A Center of Lincoln's Illinois



Adopted May XX, 2023

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## **1.01 TITLE**

This Ordinance shall be known, cited, and referred to as the Menard County Wind Energy Siting Ordinance.

## **1.02 PURPOSE**

The purpose of this ordinance is to provide for the construction, installation, and operation of Commercial Wind Energy Conversion Systems (WECS) in Menard County in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, conservation lands, historical and other sensitive lands. This ordinance is not intended to abridge safety, health, or environmental requirements contained in other applicable codes, standards, or ordinances.

## **2.01 DEFINITIONS**

**"Applicant"** means the entity who submits to the County an application for the siting and operation of any WECS or Substation. All references to Applicant in this Ordinance shall include Applicant's successors-in-interest and assigns, which includes a WECS Permittee (as defined below).

**"Commercial Operation Date"** means the calendar date on which the WECS Project produces power for commercial sale, not including test power.

**"Commercial Wind Energy Facility"** means a wind energy conversion facility of equal or greater than 500 kilowatts in total nameplate generating capacity. Also referred to herein as "Wind Energy Conversion System" or "WECS" or "WECS Project".

**"Financial Assurance" or "Financial Security" or "Decommission Security"** means assurance from a credit worthy party, examples of which include a surety bond (e.g., performance and payment bond), trust instrument, cash escrow, or irrevocable letter of credit.

**"Meteorological Tower"** means those towers which are erected primarily to measure wind speed and direction plus other data relevant to siting and operation of a WECS Project. For purposes of this ordinance, Meteorological Towers do not include towers and equipment used by airports, the Illinois Department of Transportation, or other similar applications or government agencies, to monitor weather conditions.

**"Notice to Proceed"** means a written document, named as such, stating that the Applicant expresses an intent to commence construction activities on a WECS Project which identifies the date on which the construction activities are scheduled to commence.

**"Nonparticipating property"** means real property that is not a participating property.

**"Nonparticipating residence"** means a residence that is located on nonparticipating property and that is existing and occupied on the date that an application for a permit to develop the WECS Project is filed with the county.

**"Occupied community building"** means any one or more of the following buildings that is existing and occupied on the date that the application for a permit to develop the WECS Project is filed with the county: a school, place of worship, day care facility, public library, or community center.

**"Operator"** means the person or entity responsible for the day-to-day operation and maintenance of a Wind Energy Conversion System, including any third-party subcontractors. The Operator must be a qualified wind power professional. All references to Operator in the Ordinance shall include Operator's successors-in-interest and assigns.

**"Owner"** means the person or entity or entities with an equity interest in a Wind Energy Conversion System, including their respective successors-in-interest and assigns. The Owner does not mean (i) the property owner from whom land is leased for locating a Wind Energy Conversion System (unless the property owner has an equity interest in a Wind Energy Conversion System); or (ii) any person holding a security interest in a Wind Energy Conversion System solely to secure an extension of credit, or a person foreclosing on such security interest, provided that after foreclosure, such person seeks to sell a Wind Energy Conversion System at the earliest practicable date. This definition includes the definition of Facility Owner as defined in 55 ILCS 5/5-12020.

**"Participating property"** means real property that is the subject of a written agreement between a facility owner and the owner of the real property that provides the facility owner an easement, option, lease, or license to use the real property for the purpose of constructing a WECS Project or supporting facilities. "Participating property" also includes real property that is owned by a facility owner for the purpose of constructing WECS Project or supporting facilities.

**"Participating residence"** means a residence that is located on participating property and that is existing and occupied on the date that an application for a permit to develop the WECS Project is filed with the county.

**"Professional Engineer"** means a qualified individual who is licensed as a professional engineer in the State of Illinois. Where a structural engineer is required to take some action under terms of this Ordinance, a Professional Engineer may serve as the structural engineer if he or she has the appropriate structural engineering certification in the State of Illinois.

**"Protected lands"** means real property that is subject to a permanent conservation right consistent with the Real Property Conservation Rights Act (765 ILCS 120) or registered or designated as a nature preserve, buffer, or land and water reserve under the Illinois Natural Areas Preservation Act (525 ILCS 30).

**"Public Conservation Lands"** means land owned in fee title by County, state or federal agencies and managed specifically for conservation purposes including but not limited to County, state, and federal parks; state and federal wildlife management

areas; state scientific and natural areas; and federal wildlife refuges and waterfowl protection areas. Public conservation lands do not include private lands upon which conservation easements have been sold to government agencies or non-profit conservation organizations. Public conservation lands also do not include private lands for which the owners have entered contractual relationships with government or non-profit conservation organizations for conservation purposes.

**"Special Use Permit"** means a permit approved by the County Board, after a public hearing, allowing a particular use at a specified location subject to compliance with certain specified special conditions as may be required by the County Board.

**"Structural Engineer"** means a qualified individual who is licensed as a professional engineer in the State of Illinois and will analyze, design, plan, and research structural components and structural systems to achieve design goals and ensure the safety and comfort of users or occupants. Their work takes account mainly of safety, technical, economic, and environmental concerns, but they may also consider aesthetic and social factors of the WECS project.

**"Substation"** means the apparatus that collects and connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility's transmission lines.

**"Supporting Facilities"** means the transmission lines, substations, access roads, meteorological towers, storage containers, and equipment associated with the generation and storage of electricity by the WECS.

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

**"WECS Permittee"** means an Applicant who applies for and receives a Special Use Permit under this Ordinance for the siting and operation of any WECS or Substation. All references to a WECS Permittee in this Ordinance shall include a WECS Permittee's successors-in-interest and assigns.

**"WECS Tower" or "Wind Tower"** means and includes wind turbine tower, nacelle, and blades.

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

**"WECS Building Permit"** means a permit necessary for the commencement of work performed toward the construction, erection, or installation of an approved WECS, Substation or operations and maintenance building in connection with a WECS Project. A WECS Building Permit may be issued by the county after a WECS Project has obtained a Special Use Permit from the Menard County Board and the Menard County Zoning Office determines that all conditions, if any, have been satisfied that are imposed by the Special Use Permit. The WECS Building Permit shall require the Applicant (WECS Permittee) to deliver a written "Notice to Proceed" for the WECS Project to the county prior to commencement of construction of the WECS Project.

The term "commencement of construction" as used in this Ordinance, includes any site development work (e.g., demolition, grubbing, grading, excavation, road work, construction of Project-related structures and infrastructure improvements, etc.) regarding the WECS Project.

**"Wind Turbine"** means any piece of electrical generating equipment that converts the kinetic energy of moving wind into electrical energy using airfoils or similar devices to capture the wind.

### **3.01 APPLICABILITY**

- A. This Ordinance governs the siting of WECS and Substations that generate electricity to be sold to wholesale or retail markets.
- B. Owners of WECS with an aggregate generating capacity of 0.5MW or less who locate the WECS(s) on their own property are not subject to this Ordinance.

### **4.01 PROHIBITION**

- A. No WECS Project, WECS or Substation governed by this Ordinance shall be constructed, erected, installed, or located within the county, unless prior siting approval has been obtained for each individual WECS Project, WECS and Substation or for a group of WECS Projects and Substations under a joint siting application pursuant to this Ordinance.

### **5.01 SPECIAL USE PERMIT APPLICATION**

- A. To obtain siting approval, the Applicant must first submit a Special Use Permit application to the Menard County Zoning Office to be forwarded onto the Menard County Board of Commissioners for public hearing and approval or denial.
- B. The Special Use Permit requested by the applicant will be understood to be used across all Menard County Zoning Districts unless it is specified otherwise in the application.
- C. The Special Use Permit application shall contain or be accompanied by the following information:
  - 1. A WECS Project Summary including, to the extent available:
    - (a) a general description of the project, including
    - (i) its approximate overall name plate generating capacity,

- (ii) the potential equipment manufacturer(s),
  - (iii) type(s) of WECS(s),
  - (iv) the number of WECS, and name plate generating capacity of each WECS,
  - (v) the maximum height of the WECS Tower(s) and maximum diameter of the WECS(s) rotor(s),
  - (vi) the number of Substations,
  - (vii) a project site plan, project phasing plan and project construction timeline plan, and
  - (viii) the general location of the project; and
  - (ix) transmission location – both above and below ground;
- (b) a description of the Applicant, Owner, and Operator, including their respective business structures;
2. The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s), if known, and documentation demonstrating land ownership or legal control of the property;
  3. A site plan for the WECS Project showing the planned location of each WECS Tower and substation, including legal descriptions for each site and GPS coordinates, guy lines and anchor bases (if any), Participating and Non-participating Residences, Occupied Community Buildings parcel boundary lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, Substation(s), operations and maintenance buildings, and permanent Meteorological Towers, electrical cabling from the WECS Tower to the Substation(s), ancillary equipment, third party transmission lines, the location of any wetlands, flood plain, drainage structures including surface ditches and subsurface drainage lines, underground mines, scenic and natural areas within one thousand five hundred (1,500) feet of the proposed WECS, the location of all known communications towers within two (2) miles of the proposed WECS, and the layout of all structures within the geographical boundaries of any applicable setback;
  4. All determinations of No Hazard and Hazard to Air Navigation from the Federal Aviation Administration;
  5. A proposed Decommissioning Plan for the WECS Project including cost estimations;

6. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance;
  7. An Agricultural Impact Mitigation Agreement (AIMA) executed between the Applicant and the Illinois Department of Agriculture;
  8. The topographic map shall include the WECS Project site and the surrounding area;
  9. Any other information normally required by the County as part of its permitting requirements for siting buildings or other structures;
  10. Results and recommendations from the Illinois Dept. of Natural Resources obtained through the Ecological Compliance Assessment Tool or a comparable successor tool.
  11. Results of the United States Fish and Wildlife Service's Information for Planning and Consulting environmental review or a comparable successor tool that is consistent with the United States Fish and Wildlife Service's Land-Based Wind Energy Guidelines.
  12. Information demonstrating that the WECS Project will avoid protected lands.
  13. All required Utility permitting to be issued pursuant to the Menard County Highway Policy.
  14. Any other information requested by the County or the County consultants that is necessary to evaluate the siting application and operation of the WECS Project and to demonstrate that the WECS Project meets each of the regulations in this Ordinance, including the Special Use Permit standards set forth below.
- D. Material changes to the application are not permitted once the notice of the public hearing has been published, unless requested or permitted by the Menard County Zoning Office; and the Menard County Board.
- E. The Applicant shall submit Twenty-five (25) copies of the Special Use Permit application to the County, and at least one (1) copy in electronic format.

## **6.01 DESIGN AND INSTALLATION.**

## Design Safety Certification

1. WECS(s) shall conform to applicable industry standards, including:
  - National Electrical Safety Code (NESC)
  - National Electric Code (NEC)
  - National Fire Protection Agency (NFPA)
  - Occupational Safety and Health Administration (OSHA)
  - American Society of Testing and Materials (ASTM)
  - Institute of Electrical and Electronic Engineers (IEEE)
  - International Electrotechnical Commission (IEC)
  - American Society of Civil Engineers (ASCE)
  - American Concrete Institute ("ACI")
  - United States Environmental Protection Agency (EPA)
  - National Electrical Testing Association (NETA)
  - Underwriter's Laboratories (UL)
  - American National Standards Institute ("ANSI")
2. Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from, Det Norske Veritas ("DNV"), Germanischer Lloyd Wind Energie ("CGL"), or an equivalent third party. All turbines shall be new equipment commercially available; no used or experimental equipment shall be used in the WECS Project without the approval of a variance by the County Board.
3. Following the granting of siting approval under this Ordinance, a structural engineer shall certify, as part of the WECS Building Permit application process, that the foundation and tower design of the WECS is within accepted professional standards given local soil, subsurface and climate conditions.

### B. Controls and Brakes

All WECS(s) shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, tilt, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection. Additionally, remote monitoring of turbines will be required with alarm/notification to Menard County Sheriff's Office 911 operators for relay to appropriate first responders if WECS(s) exceed manufacturers recommended RPM standards of operation.

C. Electrical Components

All electrical components of the WECS shall conform to applicable local, state, and national codes; and relevant national and international standards (e.g., ANSI and International Electrical Commission).

D. Aesthetics and Lighting

The following items are recommended standards to mitigate visual impact:

1. Coatings and Coloring: Towers and blades shall be painted white or gray or another non-reflective, unobtrusive color.
2. Turbine Consistency: To the extent feasible, the WECS Project shall consist of turbines of similar design and size, including tower height. All turbines shall rotate in the same direction. Turbines shall also be consistent in color and direction with nearby facilities.
3. Lighting: WECS Projects shall utilize minimal lighting that is compliant with the applicable FAA regulations, as amended by the FAA. To the extent that such tower lighting is available and is approved by the FAA for a WECS Project, the Applicant shall install Aircraft Detection Lighting Systems ("ADLS") or other similar technology to reduce light pollution and visual impacts caused by the WECS Towers.
4. Intra-project Power and Communication Lines: All power lines used to collect power from individual turbines and all communication lines shall be buried underground at a depth in accordance with the Agricultural Impact Mitigation Agreement until same reach the property line or a substation adjacent to the property line.

E. Warnings

1. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations, and at all entrances to the Wind Towers.
2. Visible, reflective, colored objects, such as flags, plastic sleeves, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of fifteen (15) feet from the ground.

F. Climb Prevention

1. All WECS Towers must be unclimbable by design or protected by anti-climbing devices such as:
  - i. Fences with locking portals at least six (6) feet high; or
  - ii. Anti-climbing devices twelve (12) feet vertically from the base of the WECS Tower.

G. Setback Requirements

WECS Towers shall be sited as follows, with setback distances measured from the center of the base of the WECS Tower;

- i. Occupied Community Buildings: 2.1 times the maximum blade tip height of the WECS Tower to the nearest point on the outside wall of the structure.
- ii. Participating Residences: 1.1 times the maximum blade tip height of the WECS Tower to the nearest point on the outside wall of the structure;
- iii. Nonparticipating Residences: 2.1 times the maximum blade tip height of the WECS Tower to the nearest point on the outside wall of the structure;
- iv. Boundary Lines of Participating Property: None.
- v. Boundary Lines of Nonparticipating Property: 1.1 times the maximum blade tip height of the WECS Tower to the nearest point on the property line of the nonparticipating property.
- vi. Public Road Rights-of-Way: 1.1 times the maximum blade tip height of the WECS Tower to the center point of the public road right-of-way.
- vii. Overhead Communication and Electric Transmission and Distribution Facilities (Not Including Overhead Utility Service Lines to Individual Houses or Outbuildings): 1.1 times the maximum blade tip height of the WECS Tower to the nearest

edge of the property line, easement, or right of way containing the overhead line.

- viii. Overhead Utility Service Lines to Individual Houses or Outbuildings: None.
- ix. Fish and Wildlife Areas and Illinois Nature Preserve Commission Protected Lands: 2.1 times the maximum blade tip height of the WECS Tower to the nearest point on the property line of the fish and wildlife area or protected land.

#### H. Compliance with Additional Regulations

1. Menard County municipalities may solely require pre-annexation/annexation agreements and shall regulate WECS(s) (65 ILCS 5/11-13-26) within the 1.5-mile planning jurisdiction.

Municipal WECS: WECS(s) that are proposed to be located on lands within the 1.5-mile radius of an incorporated municipality's zoning jurisdiction shall seek zoning and building approval from said municipality.

a. Prior to the start of any construction or ground work, the facility owner must either:

1. Present documentation that the proposed site is the subject of an approved pre-annexation agreement, and facilitate the creation of an Intergovernmental Agreement between the municipality and the County identifying that the municipality will be taking full jurisdiction over the project site and affected properties for the life of the project; or
  2. Present documentation that the proposed site has been the subject of an annexation into the municipality.
2. Nothing in this Ordinance is intended to preempt other applicable state and federal laws and regulations.

#### I. Use of Public Roads

1. An Applicant proposing to use any County, municipality, township, or village road(s) for the purpose of transporting WECS(s) or Substation parts, infrastructure and/or equipment for construction, operation, or maintenance of the WECS(s) or Substation(s) shall follow the Menard County Road Use Agreement executed with the

Menard County Engineer and applicable Road District Commissioner. The Applicant shall notify the Menard County Engineer of need to use roads and associated infrastructure when performing replacement of infrastructure and shall:

- i. Identify all such public roads; and
  - ii. Obtain applicable weight and size permits from relevant government agencies prior to construction.
2. To the extent an Applicant must obtain a weight or size permit from the County, municipality, township or village, the Applicant shall:
  - i. Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage and the need for pre-construction modifications and improvements on existing roadways; and
  - ii. Any proposed public roads that will be used for construction purposes shall be identified and approved in writing by the respective Road District Commissioner and the County Engineer prior to the granting of the Special Use Permit. Traffic for construction purposes shall be limited to these roads. All overweight and/or oversized loads to be transported on public roads may require a permit from the respective highway authority. Any road damage caused by the transport of the facility's equipment, the installation, maintenance, or removal must be completely repaired to the reasonable satisfaction of the Road District Commissioner and the County Engineer. The Road District Commissioner and County Engineer may choose to require either remediation of road repair upon completion of the WECS Project or are authorized to collect fees for overweight and/or oversized load permits. Further, financial assurance in an amount to be fixed by the Road District Commissioner and/or the County Engineer to ensure the Road District or the County that future repairs are completed to their reasonable satisfaction shall be provided. Applicant shall submit a draft form of said financial assurance with application for Special Use Permit with the Menard County Zoning Office.
  - iii. Enter into a road use agreement with the County and each affected Road District that includes the following provisions, at a minimum:

- i. Project layout map;
- ii. Transportation impact analysis;
- iii. Pre-construction plans;
- iv. Project traffic map;
- v. Maximum gross trucking weight to be hauled per roadway;
- vi. Project scope of repairs;
- vii. Post-construction repairs;
- viii. Insurance;
- ix. Financial Security in forms and amounts acceptable to Menard County;

The road use agreement shall require the Applicant to be responsible for the reasonable cost of improving roads used to construct each WECS and the reasonable cost of repairing roads used by the facility owner during construction of the WECS so that those roads are in a condition that is safe for the driving public after the completion of the WECS construction. Roadways improved in preparation for and during the construction of the WECS shall be repaired and restored to the improved condition at the reasonable cost of the developer if the roadways have degraded or were damaged as a result of construction-related activities.

- 3. Any road not shown as being initially utilized for hauling and/or construction traffic, but is noted to have hauling and/or construction traffic on it during construction for a total of two (2) offenses, will then be included into the schedule of initially noted haul routes scheduled for repair and maintenance.
- 4. All repairs and improvements to Menard County and Road District public roads and roadway appurtenances shall be subject to the prior approval of the Menard County Board of Commissioners before being made and shall also be subject to inspection and acceptance by the Menard County Engineer and Road District Commissioner after such repairs and improvements are completed. The Menard County and Road District's Road Use Agreement, and any further agreements contemplated therein, regarding the maintenance and repair of Menard County and Road District public roads and highways, must be approved by the Menard County Board of Commissioners and respective Road Commissioner prior to the Board's approval of any WECS Building Permit applications related to the construction of the proposed WECS Project.

#### J. Site Assessment

To ensure that the subsurface conditions of the site will provide proper support for the WECS Towers and soil restoration, the Applicant, at its expense, shall provide soil and geotechnical boring reports and stamped engineering reports regarding mine subsidence possibilities to the County Engineer with respect to each WECS Tower location as part of its WECS Special Use Permit application. The Applicant shall follow the guidelines for Conservation Practices Standards and Natural Resource Inventory Report submitted by the Menard County Soil and Water Conservation District (or equivalent regulatory agency). The Applicant shall submit grading plans for the proposed Substations and any related infrastructure for review and comment by the Menard County Soil and Water Conservation District. The grading plans shall be a public record and shall be submitted as part of the Special Use Permit application for the issuance of any WECS Building Permit for the construction of said substations.

K. Communications Analysis; Interference

1. The Applicant, at its expense, shall have a third party, qualified professional (after submission and approval of resume and relevant work experience) conduct an appropriate analysis of the television reception documenting the television stations that are received within one and one-half (1 ½) miles of the footprint of the WECS Project. The results of said study shall be public record and will serve as a baseline reading for television reception conditions prior to the construction of the WECS Project and shall be submitted as part of the Special Use Permit application.
2. The Applicant, at its expense, shall have a third party, qualified professional (after acceptance and/or approval of resume and relevant work experience by the Menard County Board of Commissioners), conduct a communications analysis that indicates that the E9-1-1 communications, emergency communications or official County and local municipal communications reception shall not be negatively impacted or influenced by the proposed wind power facility. Said communication analysis shall be a public record and shall be submitted as part of the Special Use Permit application.
3. The Applicant and the Operator, at the Applicant's expense, shall take immediate actions to minimize or mitigate interference with electromagnetic communications such as radio, telephone, microwaves, or television signals, and to eliminate any such interference that impacts local government public safety (police, fire, emergency medical services, emergency management services, 911

dispatch) communications, caused by the operation of the WECS. The Applicant shall provide the applicable microwave transmission providers and local emergency service provider(s) (911 operators) copies of the WECS Project Summary and Site Plan, as set forth in Section 5.01(B)(1) and 5.01(B)(3) of this Ordinance. To the extent that the above provider(s) demonstrate a likelihood of interference with its communications resulting from the WECS(s), the Applicant and the Operator, at Applicant's expense, shall take reasonable measures to minimize and mitigate such anticipated interference and regarding interference with local government public safety (police, fire, emergency medical services, emergency management services and 911 dispatch) communications. The Applicant and the Operator, at Applicant's expense, shall take all necessary and available commercial measures to eliminate any such interference. If, after construction of the WECS, the Applicant (WECS Permittee) or Operator receives a written complaint related to the above-mentioned interference, the Applicant (WECS Permittee) shall take commercially reasonable steps to respond to the complaint, except in the case of a complaint of interference with local, government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications. In the case of local government public safety communications, the Applicant (WECS Permittee) and the Operator, at the Applicant's expense, shall immediately take all necessary and available commercial measures to eliminate any such interference.

4. If, after construction of the WECS, the Applicant (WECS Permittee) or Operator receives a written complaint related to interference with local broadcast residential television, the Applicant (WECS Permittee) shall take commercially reasonable steps to respond to the complaint. A summary of complaint and subsequent response from Applicant shall be forwarded to the Menard County Zoning Office and/or the Menard County Board of Commissioners for review. Once the construction is complete and a television reception complaint is received by the Menard County Board District Commissioner in the affected District and the Menard County Board of Commissioners Chairman (who will have forty-five (45) calendar days to verify the complaint), the Applicant (WECS Permittee) will be given forty-five (45) calendar days to respond in writing (validation date). Said response shall be addressed and forwarded to both the Menard County Board District Commissioner in the affected District and the complainant. Such response shall include but not be limited to the following: an acknowledgment that a complaint was made and

evaluated by the Applicant (WECS Permittee). If considered valid by the Applicant (WECS Permittee): an explanation, including a timeline, as to what the Applicant (WECS Permittee) intends to do about the complaint and shall be submitted in writing to the Menard County Board of Commissioners. The Applicant (WECS Permittee) of the wind power facility will be given an additional forty-five (45) calendar days from the validation date to resolve said TV reception issue. If a resolution cannot be obtained within the time period allotted, The Menard County Board of Commissioners shall review the complaint for further action and may require a shutdown of the specific WECS until the complaint can be resolved.

If considered invalid by the Applicant (WECS Permittee), an explanation, including supporting documentation and expert opinions, as to why the Applicant (WECS Permittee) believes the complaint is not valid shall be submitted in writing to the Menard County Board of Commissioners. Television reception complaints must be filed within six (6) months from the date each wind turbine generator goes online.

L. Noise Levels

Noise levels from each WECS or WECS Project shall be in compliance with applicable Illinois Pollution Control Board (IPCB) regulations (Illinois Pollution Control Board 35 Ill. Adm. Code Parts 900, 901, and 910). The Applicant shall submit manufacturer's wind turbine sound power level characteristics and other relevant data regarding wind turbine noise characteristics necessary for a competent noise analysis. The Applicant, using a qualified professional, shall demonstrate compliance with the applicable noise requirements in its Special Use Permit application. The Applicant, using a qualified professional, shall demonstrate compliance with the applicable noise requirements cited by the Illinois Pollution Control Board regulations of each WECS and the WECS project upon construction completion.

M. Agricultural Impact Mitigation

Pursuant to 505 ILCS 147/15(a), the Applicant, at its expense, shall enter into an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture prior to any public hearing required before a siting decision on the WECS Project application. All impacted agricultural land, whether impacted during construction, operation, or decommissioning activities, must, at a minimum, be remediated by the Applicant pursuant to the terms of the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture. The Applicant shall submit the executed

Agricultural Impact Mitigation Agreement to the Menard County Board of Commissioners as part of the Special Use Permit application.

N. Avian and Wildlife Impact Study

The Applicant, at its expense, shall have a third party, qualified professional (after submission and approval of resume and relevant work experience) conduct an avian and wildlife impact study and submit said study to the County as part of the Special Use Permit application. Each WECS or WECS Project shall be located, designed, constructed, and operated to avoid and if necessary, mitigate, the impacts to wildlife. The Applicant will comply with all applicable avian and wildlife protection rules and regulations including:

1. Endangered Species Act (protects federally listed threatened and endangered species) (16 U.S.C. §§1531 et seq.)
2. Illinois Endangered Species Protection Act (“IESPA”) (520 ILCS 10)
3. Migratory Bird Treaty Act (“MBTA”) (16 U.S.C. §§ 703-712), and
4. Bald and Golden Eagle Protection Act (“BGEPA”) (16 U.S.C. 668-668d and 50 Code of Federal Regulation [CFR] 22.26)

O. Illinois Environmental Protection Agency Impact Study

The Applicant, at its expense, Illinois Environmental Protection Agency conduct water impact studies and submit said studies to the County as part of the Special Use Permit application. Each WECS or WECS Project shall be located, designed, constructed, and operated to avoid and if necessary, mitigate, the impacts to water under Section 401 of the Clean Water Act, and Section 402 - National Pollutant Discharge Elimination (NPDES) Permit of Construction Site Activities.

P. Coal Mine – Mine Subsidence Study

The Applicant, at its expense, shall have a third party, qualified professional engineer licensed in the State of Illinois (after submission and approval of resume and relevant work experience) conduct a Coal Mine – Mine Subsidence impact study and submit said study to the Menard County Board of Commissioners as part of the Special Use Permit application. Each WECS or WECS Project shall be located, designed, constructed, and operated to avoid siting over active or inactive mine areas.

Q. Historical Impact Study

The Applicant, at its expense, shall have a third party, qualified professional (after submission and approval of resume and relevant work experience) conduct an historical impact study and submit said study to the Menard County Board of Commissioners as part of the Special Use Permit application. Each WECS or WECS Project shall be located, designed, constructed, and operated to avoid and if necessary, mitigate, the impacts to the rich history of Menard County.

R. Clean Water Act Impact Study

The Applicant, at its expense, shall have the U.S. Army Corps of Engineers conduct a water study and submit said study to the County as part of the Special Use Permit application. Each WECS or WECS Project shall be located, designed, constructed, and operated to avoid and if necessary, mitigate, the impacts to Wetlands. Once a wetland delineation has been performed, applicant will consult with USACE and acquire necessary permits under the Clean Water Act Section 404.

S. As-Built Map and Plans

Within sixty (60) calendar days of completion of construction of the WECS Project, the Applicant or Operator shall deliver 2 (two) sets of "as-built" maps, including all WECS towers, driveways, substations, replaced drainage structures and all transmission (above and below ground) in the site plan and engineering plans for the WECS Project that have been signed and stamped by a Professional Engineer and a licensed surveyor registered in the State of Illinois, with 1 (one) set being in an electronic format.

T. Engineer's Certificate

The WECS Project engineer's certificate shall be completed by a structural engineer or Professional Engineer licensed in the State of Illinois, and shall certify that the WECS tower and foundation design is compatible with and appropriate for each turbine design proposed to be installed; and that the specific soils and subsurface conditions at the site can support the apparatus given local soil, subsurface and climate conditions. All commercially installed wind turbines must utilize self-supporting tubular towers. The WECS Project engineer's certificate shall be a public record and shall be submitted as part of the Special Use Permit application.

U. Conformance with Approved Application and Plans

1. The Applicant shall construct and operate the WECS Project in complete conformance with the construction plans contained in a Menard County approved submitted Special Use Permit application(s), conditions placed upon the operation of the Facility, this ordinance and all applicable state, federal and local laws and regulations unless otherwise submitted and approved by Menard County.
2. The Applicant shall be bound by any and all proposals and representations made under oath at the public hearing before the Menard County Board of Commissioners, which shall be considered supplementary conditions of the Special Use Petition granted by the Menard County Board of Commissioners, even if not directly specified herein.

V. Additional Terms and Conditions

1. All technical submissions as defined in the Professional Engineering Practice Act of 1989 (225 ILCS 325/4(w)) and contained in the Special Use Permit Application shall be prepared and signed by an Illinois Professional Engineer (or structural engineer) for the relevant discipline.
2. The County may retain a qualified independent code inspector or professional engineer both to make appropriate inspections of the WECS Project during and after construction and to consult with the County to confirm that the construction, substantial repair, replacement, repowering and/or decommissioning of the WECS Project is performed in compliance with applicable electrical and building codes. The cost and fees so incurred by the County in retaining said inspector or engineer shall be reimbursed by the Applicant of the WECS Project within thirty (30) days of the presentation of invoice.
3. The Applicant shall provide locked metal gates or a locked chain are installed at the access road entrances of all the wind turbine generator locations. An exception may be made when the landowner has filed a written statement with the County which states that the owner does not want a locked metal gate installed and has provided a signed liability waiver to the County.
4. The Special Use Permit granted to the Applicant shall bind and inure to the benefit of the Applicant, its successors-in-interest, and assigns.

If any provision in this Ordinance, or conditions placed upon the operation of the Commercial Wind Energy Facility is held invalid, such invalidity shall not affect any other provision of this Ordinance that can be given effect without the invalid provision and, to this end, the provisions in this Ordinance are severable.

5. The Applicant shall provide an executed road use agreement to the Menard County Board of Commissioners between the Applicant and the appropriate governing road and highway jurisdictions or the Illinois Department of Transportation to the County and Road District showing approved entrances, construction access, and haul routes prior to the issuance of any WECS Building Permit or prior to construction of the WECS Project.
6. No wind turbine generator shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. The wind turbine generator shall not be installed in a location along the major axis of existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.
7. The Applicant of the WECS Project shall use two (2) methods to detect icing conditions on turbine blades: (1) sensors that detect when blades become imbalanced or create vibration due to ice accumulation; and (2) meteorological data from on-site meteorological towers, on-site anemometers, and other relevant weather sources that will be used to determine if ice accumulation is occurring. These control systems will either automatically shut down the turbines(s) in icing conditions or the Applicant will manually shut down the turbine(s) if icing conditions are identified.
8. Treatment of Existing Drainage Tile; shall be the responsibility of the WECS Owner to notify the Menard County Engineer if the construction of any part of the project encounters underground field drainage tiles. A plan sufficient to provide remediation shall be submitted to, and reviewed and approved by the Menard County Engineer. All existing drainage tiles that will be crossed by private access roads shall be removed and replaced with a load resistant tile as specified by the Menard County Engineer. This shall be done

before the private access roads are used for construction purposes. The load resistant tile shall extend a minimum of 30 feet across any private access roads and shall be of the same diameter of the existing tile. To ensure that all drainage tiles have been located, reasonable measures should be made to locate all existing tile in the vicinity of the private access roads by exploratory trench or other appropriate methods. All drainage tile that are encountered during construction shall be noted on the site plan.

9. The Applicant shall provide from U.S. Environmental Protection Agency (EPA) a completed Spill Prevention Control and Countermeasures (SPCC Plan). The Applicant shall submit the executed SPCC Plan to the Menard County Board of Commissioners as part of the Special Use Permit application to be implemented in coordination and at the time of Issue for Construction design documents.
10. The Applicant shall notify the County of any material changes to the information provided in subsections that occur prior to the issuance of a building permit.
  - a) The Applicant shall not commence construction activity associated with the WECS Project before 6:00 A.M. nor continue past 9:00 P.M. on any day of the week within one-quarter ( $\frac{1}{4}$ ) of a mile of any non-participating landowner unless a waiver is obtained from such landowner.
  - b) Prior to issuance of a building permit, the Applicant shall provide documentation to the Menard County Zoning Administrator specifications for the WECS equipment chosen for the Project.
  - c) The Applicant shall commence construction of the WECS Project within thirty-six (36) months of the date of the Special Use Petition approval by the Menard County Board of Commissioners. After construction is complete, the Petitioner shall provide certified “as-built” drawings to the Menard County Zoning Administrator and the Lee County Assessor showing the locations of the WECS Turbines and a legal description of the land utilized for the improvements. The Special Use Permit shall thereafter automatically be modified to limit the legal description of the area of the Special Use Petition to the land utilized for the improvements.

## **7.01 OPERATION.**

### **A. Maintenance**

1. Annual Report. The Applicant (WECS Permittee) shall submit, to the Menard County Department of Zoning on the first Monday of May of each year following WECS project approval by the Menard County Board of Commissioners, a report regarding WECS maintenance and operation. This report contains the following information:
  - (i) a general description of any physical repairs, replacements, or modification(s) to the WECS and/or its infrastructure;
  - (ii) complaints pertaining to setbacks, noise, shadow flicker, appearance, safety, lighting, and use of any public roads received by the Applicant concerning the WECS and the resolution of such complaints;
  - (iii) calls for emergency services, including the nature of the emergency and how it was resolved;
  - (iv) status of liability insurance; and
  - (v) Any other information that the county might reasonably request.
  - (vi) a general summary of service calls to the WECS. Failure to provide the annual report shall be considered a material violation of this Ordinance and subject to Article 10.01 (Administration and Enforcement).
2. Within ninety (90) days of the receipt of this annual report, the department of zoning shall review it, conduct an on-site field review of the WECS project, and within one hundred twenty (120) days of the receipt of the report, provide a summary of the report and its on-site field review to the Menard County Board of Commissioners.
3. The department of zoning shall charge a fee for this annual review in the amount of no more than two hundred fifty dollars (\$250.00) per turbine located within the WECS project area. This fee shall be provided to the department of zoning by the WECS applicant, owner and/or operator at the time of annual report submission. Failure to provide the annual report and required fee shall be considered a cessation of operations.
4. The applicant, owner and/or operator of a WECS project shall provide that the Menard County Department of Zoning have access to the WECS project site for the purposes described in [Section]

7.01(A)(2) above. Failure to provide access shall be deemed a violation of the Special Use Permit.

5. Re-Certification. Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification under Article 6.01 Design and Safety Certification section, paragraph 1, of this Ordinance. Like-kind replacements and modifications that are made in the ordinary course of operations, including expected repairs and warranty items, shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement or other modifications made in the ordinary course of operations), the Applicant shall confer with a relevant third-party certifying entity identified in Article 6.01 Design and Safety Certification section, paragraph 1, of this Ordinance to determine whether the physical modification requires re-certification.

B. Coordination with Emergency Responders:

1. The Applicant shall submit to the local emergency responders a copy of the Site Plan, Standard Operating Procedures (SOPs) and Standard Operating Guidelines (SOGs), and any amendments to such documents, for the wind power facility so that the local law enforcement, fire protection district and rescue units, emergency medical service providers, and emergency management service providers that have jurisdiction over each tower site may evaluate and coordinate their emergency response plans with the Applicant of the WECS Project.
2. The Applicant, at its expense, shall provide annual training for, and the necessary equipment to, the Operator and local emergency response authorities and their personnel so that they can properly respond to a potential emergency at the WECS Project. Special equipment to be provided includes, but is not limited to, key access (Knox) boxes, and permanently installed rescue equipment such as winches, pulleys, harnesses, etc.
3. The Applicant and the Operator shall cooperate with all local emergency responders to develop an emergency response plan. The plan shall include, at a minimum, 24-hour contact information (names, titles, email addresses, cell phone numbers) for the Applicant and the Operator and at least three (3) designated WECS Project representatives (a primary representative with two (2) alternate representatives, each of whom are on-call "24 hours per day / 7 days

per week 365 days per year"). Any change in the designated WECS Project representative or his/her contact information shall be promptly communicated to the Menard County Board of Commissioners in writing. The content of the emergency response plan, including the 24-hour contact information, shall be reviewed, and updated on an annually basis.

4. Nothing in this section shall alleviate the need to comply with all other applicable life safety, fire / emergency laws and regulations.
5. Any emergency work or response required in direct response to the WECS project or individual WECS tower, will be billed directly to the developer outside of the scope of the Special Use Permit pursuant to (70 ILCS 705/11f) for local responders. Any specialized operation requiring municipal responders, response will be billed per their standard base rate of their agency.

C. Water, Sewer, Materials Handling, Storage and Disposal

1. All solid wastes related to the construction, operation, and maintenance of the WECS shall be removed from the site promptly, and disposed of in accordance with all federal, state, and local laws.
2. All hazardous materials related to the construction, operation, and maintenance of the WECS shall be handled, stored, transported, and disposed of in accordance with all applicable local, state, and federal laws.
3. The WECS Project shall comply with existing septic and well regulations as required by the Menard County Public Health Department, The Sangamon County Department of Public Health, and the State of Illinois Department of Public Health.

D. Shadow Flicker

The Applicant must present to the County Board a model study on potential shadow flicker. The Applicant shall demonstrate to the County Board through industry standard modeling that no occupied community building or non-participating residence will experience an expected duration of 30 hours or more per year.

E. Aviation Safety

The Applicant shall not locate a WECS Turbine to be located to create an airport hazard or obstruction to any existing airport, restricted landing area or heliport pursuant to Illinois Administrative Code Title 92: Transportation, Chapter I: Department of Transportation, Subchapter b: Aeronautics Part 14 Aviation Safety.

F. Signage

Signage regulations are to be consistent with ANSI and AWEA standards. A reasonably visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations, and at all entrances to Wind Towers.

G. Drainage Systems

The Applicant at its expense will repair, within 90 days after a complaint is filed, all waterways, drainage ditches, agricultural drainage systems, field tiles, or any other private and public infrastructure improvements damaged during construction, maintenance, and operation phases of the WECS Project in accordance with the Agricultural Impact Mitigation Agreement and the IDOA Drain Tile Repair schedule figures 1-2. (See Appendix (3))

H. Complaint Resolution

The Applicant shall, at its expense and in coordination with the County, develop a system for logging and investigating complaints related to the WECS Project. The Applicant shall resolve such non-emergency complaints on a case-by-case basis and shall provide written confirmation to the Menard County Zoning Office. All costs and fees incurred by the County in resolving or attempting to resolve complaints shall be reimbursed by the Applicant of the WECS Project. The Applicant shall also designate and maintain for the duration of the WECS Project either a local telephone number or a toll-free telephone number and an email address as its public information inquiry / and complaint "hotline" which shall be answered by a customer service representative on a 24/7 basis. The Applicant shall post the telephone number(s) and email address(es) for the customer service representative(s) in a prominent, easy to

find location on their websites and at the WECS Project site on signage.

#### **8.01 LIABILITY INSURANCE AND INDEMNIFICATION.**

Commencing with the issuance of a WECS Building Permit, the Applicant shall maintain a current general comprehensive liability policy and automobile liability coverage covering bodily injury, death and illness, and property damage with limits of at least Twenty Million Dollars (\$20,000,000.00) per occurrence; and shall further maintain the above-stated lines of insurance from delivery of the "Notice to Proceed" by the Applicant under the turbine supply and/or balance of plant construction contract(s) for the WECS Project in coverage amounts of at least Twenty Million Dollars (\$20,000,000.00) per occurrence and Fifty Million Dollars (\$50,000,000.00) in the aggregate during the life of the WECS Project. The Applicant shall file the original certificate of insurance upon commencement of project construction prior to the issuance of a WECS Building Permit, with corresponding policies and endorsements to be provided within sixty (60) days of issuance, and at each subsequent renewal, at least annually thereafter. Additionally, the Applicant shall name Menard County and its agents as an additionally insured participant on all policies.

The Applicant (WECS Permittee) shall defend, indemnify and hold harmless the County and its officers, appointed and elected officials, employees, attorneys, engineers and agents (collectively and individually the "Indemnified Parties") from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney's fees relating to or arising out of the issuance of the Special Use Permit or the construction, operation, maintenance, and removal of the WECS and affiliated equipment including, without limitation, liability for property damage or personal injury (including death or illness), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence) or any acts or omissions of the Applicant (WECS Permittee), the Owner or the Operator under this Ordinance or the Special Use Permit except to the extent any such claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities arise from the negligence or intentional acts of such Indemnified Parties. This general indemnification shall not be construed as limiting or qualifying the County's other indemnification rights available under the law.

#### **9.01 DECOMMISSIONING AND SITE RECLAMATION PLAN REQUIRED.**

The Applicant (or Owner, if different from Applicant) must submit a Decommissioning Plan with cost estimation to the County as part of the siting application and provide testimony supporting the calculation of costs provided in said plan during the public hearing on the application. Prior to receiving any building permit for the Commercial Wind Energy Facility, the Applicant or Owner shall provide a Decommissioning Agreement and post the required Financial Assurances for the

benefit of Menard County with the Treasurer of Menard County. The Decommissioning Agreement and Financial Assurances shall comply with 55 ILCS 5/5-12020.

Periodically, and as required by the Agricultural Impact Mitigation Agreement, the Owner must update the Decommissioning Plan, cost estimations, and provide updated Financial Assurances to the benefit of Menard County. That plan shall include:

1. A Memorandum of Understanding with property owners of each WECS Tower and all accompanying infrastructure, that if decommissioning fees exceed what has been assured through the decommissioning financial plan, property owners shall be liable for remaining costs.
2. Provisions for the removal of structures, debris, and cabling on the surface and at least five (5) feet below the surface, and the sequence in which removal is expected to occur;
3. Provisions for the restoration of the soil and vegetation;
4. An estimate of the decommissioning costs certified by a professional engineer in current dollars. The engineer providing this estimate shall be engaged under contract by the Menard County Engineer and all costs associated with this engagement shall be borne by the applicant;
5. A financial plan approved by The Menard County Board of Commissioners to ensure funds will be available for decommissioning and land restoration. The applicant shall provide the county with a new estimate of the cost of decommissioning the WECS project every five (5) years under the same conditions as set forth in the Agricultural Impact Mitigation Agreement. Upon receipt of this new estimate, the county may require, and the applicant, owner and/or operator of the WECS project shall provide, a new financial plan for decommissioning acceptable to the county. Failure to provide an acceptable financial plan shall be considered a cessation of operations;
6. A provision that the terms of the decommissioning plan shall be binding upon the owner or operator and any of their successors, assigns, or heirs; and
7. A provision that Menard County shall have access to the site and to the funds outlined above to effect or complete decommissioning one (1) year after cessation of operations.

#### **10.01 ADMINISTRATION AND ENFORCEMENT.**

- A. The Applicant's failure to materially comply with any of the provisions under the Special Use Permit, any conditions imposed on the project, and/or failure to comply with any law or regulation, shall be a default and shall be grounds for revocation of the Special Use Permit by the County Board within Forty-five (45) days.

- B. Prior to implementation of the applicable Menard County procedures for the resolution of default(s), the Menard County Board of Commissioners must first provide written notice to the Applicant and Operator setting forth the alleged default(s), and provide an opportunity for the Applicant or the Operator to cure the default(s) within a thirty (30) calendar day period from the date of the notice. Should the Applicant commence the cure within that 30-day cure period and diligently pursues a cure, then the Applicant shall receive an additional sixty (60) days to continue to pursue the cure before the County pursues procedures for the resolution of default. If the default relates to a life safety issue or interference with local government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, the Applicant or the Operator shall take all necessary and available commercial measures to immediately cure the default. If the Applicant or Operator cannot cure the default(s) or resolve the alleged default(s) within the cure period, then applicable County ordinance provisions addressing the resolution of such default(s) shall govern.

#### **11.01 FEE SCHEDULE AND PERMITTING PROCESS.**

##### **1. Application Fees**

- a. Prior to processing any Application for a Commercial Wind Energy Facility, the Applicant must submit a certified check to the Menard County Zoning Office for the Application Fee equal to five thousand dollars (\$5000) per megawatt MW of nameplate capacity plus one thousand dollars (\$1000) per additional MW of nameplate capacity, up to a maximum fee of one million dollars (\$1,000,000.00) These funds shall be placed in an FDIC insured account and will be used to cover the county's cost incurred in processing the Application.
- b. Should the actual costs to the County exceed the submitted Application Fee, the Applicant shall be responsible for those additional costs and shall remit additional funds to the County within 15 days of receipt of a request from the County. No hearings on an Application shall be conducted nor final decisions rendered on an Application if there are Application fees due to the County.
- c. Any unused amounts of the Application Fee shall be refunded to the Applicant within six months of the County Board rendering a final decision on the matter, unless any pending litigation, disputes, or negotiations involving Menard County exist regarding the Commercial Wind Energy Facility, in which case any amounts owed to the Applicant shall be refunded within six months of the

conclusion of the litigation, disputes, or negotiations. An Applicant may request any unused Application Fee be applied toward the Building Permit Fees for the Facility.

2. Building Permit Fees

- a. Prior to the issuance of building permits, the Building Permit Applicant must submit a certified check to the Menard County Zoning Office for a Building Permit Fee equating to eight thousand dollars (\$8000) per megawatt MW of nameplate capacity plus one-thousand dollars (\$1000) per additional MW of nameplate capacity. If the total nameplate capacity is less than 1 MW, the building permit fee shall be reduced pro rata.

3. All Costs to be Paid by Applicant or Owner

In addition to all fees noted above, the Applicant or Owner shall pay all costs incurred by Menard County including but not limited to those costs associated with all offices and departments, boards, and commissions of the County as well as third-party costs incurred by the County. This includes, but is not limited to, the direct or indirect costs associated with the hearing, permitting, operations, inspections, decommissioning, litigation, disputes, and/ or negotiations.

4. Due to the complexity of the project and the information submitted, it shall be reviewed by a committee consisting of one or more representatives from:

- (i) Menard County Departments of Zoning
- (ii) Menard County Planning Commission;
- (iii) Menard County Engineer;
- (iv) Menard County Road Commissioner affected
- (v) Menard County Drainage District Commissioner affected
- (vi) Menard County Emergency Telephone System;
- (vii) Menard County Coordinator;
- (viii) Menard County State's Attorney;
- (ix) Applicable Fire Protection District;

- a. Due to the complexity of the project and the information submitted for review, Menard County may charge the WECS project applicant, owner and/or operator for the cost of any special analytic or other review needs deemed by the committee to be reasonably necessary and incidental to adequate and timely review.
- b. If the committee determines that all requirements of the ordinance have been met, the zoning administrator shall issue a certificate of compliance. The building permit may be reviewed at the same time.

### **11.02 VARIATIONS**

The Menard County Zoning Office and The Menard County Board of Commissioners may permit variations to the regulations of this ordinance but shall do so only when the granting of such a variation would be in harmony with the ordinance's general purpose and intent and may vary them only in specific instances where there would be practical difficulties or hardships in the way of carrying out the strict letter of the regulations of this ordinance.

### **12.01 HEARING FACILITATOR**

The County may engage the services of a hearing facilitator. The hearing facilitator shall be an independent contractor who shall conduct a hearing in accordance with all applicable rules of the board and the county but has no adjudicatory responsibility other than ruling on requests for continuances, procedural matters, admissibility of evidence, and the propriety of any arguments.

The hearing facilitator shall be an attorney licensed to practice in the State of Illinois. The Applicant shall reimburse the county for the fees and costs charged by the facilitator.

### **13.01 HEARING FACTORS**

The County Board may approve a Commercial Wind Energy Facility Special Use Permit application if it finds the evidence complies with state, federal and local law, and regulations, and with the standards of this zoning code including the factors listed below. The factors below are applied as a balancing test, not individual requirements to be met.

- a. The establishment, maintenance, or operation of the WECS Project will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;

- b. The WECS Project will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values of surrounding properties;
  - c. The establishment of the WECS Project will not impede the normal and orderly development and improvement of the surrounding properties;
  - d. Adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided;
  - e. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
  - f. The proposed WECS Project is not contrary to the objectives of the current comprehensive plan of the County (if any); and
  - g. The WECS Project shall, in all other respects, conform to the applicable regulations of this Ordinance and the zoning district in which it is located (if a zoning ordinance is in effect), except as such regulations may, in each instance, be modified pursuant to the recommendations of and approved by the County Board.
1. Special Use Permit Conditions and Restrictions. The County Board may stipulate conditions, guarantees and restrictions, upon the establishment, location, construction, maintenance, and operation of the WECS Project as are deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements of this Ordinance.
  2. Revocation.
    - a. In any case where a Special Use Permit has been approved for a WECS Project, the Applicant shall apply for a WECS Building Permit from the County and all other permits required by other government or regulatory agencies to commence construction and commence and actively pursue construction of the Project within thirty-six (36) months from the date of the granting of the Special Use Permit. If the Applicant fails to apply for a WECS Building Permit from the County and all other permits required by other government or regulatory agencies prior to construction, and/or fails to commence and actively pursue construction of the Project within the thirty-six (36) month period, then without further action by the County Board the Special Use Permit authorizing the construction and operation of the WECS Project shall be automatically revoked

and void. Upon written request supported by evidence that the Applicant has diligently pursued issuance of all necessary government and regulatory permits for the Project required to commence construction and that any delay in commencement of construction of the Project is due to conditions out of his/her/its control, the County Board, in its sole discretion, may extend the above thirty-six (36) month period by passage of an ordinance that amends the Special Use Permit.

- b. The Special Use Permit shall be subject to revocation if the Applicant dissolves or ceases to do business, abandons the WECS Project, or the WECS ceases to operate for more than twelve (12) consecutive months for any reason.
  - c. Subject to the provisions of Article 10.01(A), a Special Use Permit may be revoked by the County Board if the WECS Project is not constructed, installed, and/or operated in substantial conformance with the County-approved Project plans, the regulations of this Ordinance and the stipulated Special Use Permit conditions and restrictions.
3. Transferability: Owner or WECS Permittee. The Applicant shall provide written notification to the County Board at least ninety (90) days prior to any change in ownership of a WECS Project of any such change in ownership. The phrase "change in ownership of a WECS Project" includes any kind of assignment, sale, lease, transfer, or other conveyance of ownership or operating control of the Applicant, the WECS Project, or any portion thereof. The Applicant or successors-in-interest or assignees of the Special Use Permit, as applicable, shall remain liable for compliance with all conditions, restrictions, and obligations contained in the Special Use Permit, the provisions of this Ordinance, and applicable County, state, and federal laws.
4. Modification. Any modification of a WECS Project that alters or changes the essential character or operation of the WECS Project in a way not intended at the time the Special Use Permit was granted, or as subsequently amended, shall require a new Special Use Permit. The Applicant or authorized representative, shall apply for an amended Special Use Permit prior to any modification of the WECS Project.

**Permit Effective Date: The Special Use Permit shall become effective upon approval of the Ordinance by the County Board.**

#### **14.01 INTERPRETATION**

The provisions of these regulations shall be held to the minimum requirements adopted for the promotion and preservation of public health, safety, and general welfare of Menard County. These regulations are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or laws of Menard County nor conflict with any statutes of the State of Illinois.

#### **15.01 SEVERABILITY**

If any section, paragraph, clause, phrase, or part of this Ordinance is for any reason held invalid by any court or competent jurisdiction, such decision shall not affect the validity of the remaining provisions of these regulations.

#### **16.01 EFFECTIVE DATE**

This Ordinance shall be in full force and effect from and after its passage, publication, and approval as required by law.

## **APPENDIX A**

### **Agricultural Impact Mitigation Agreement – Construction of a Commercial Wind Energy Facility**

**AGRICULTURAL IMPACT MITIGATION AGREEMENT**  
**between**  
**and the**  
**ILLINOIS DEPARTMENT OF AGRICULTURE**  
**Pertaining to the Construction of a Commercial Wind Energy Facility**  
**in**  
**County, Illinois**

The following standards and policies are required by the Illinois Department of Agriculture (IDOA) to help preserve the integrity of any agricultural land that is impacted by the Construction and Deconstruction of a wind energy facility in accordance with the Renewable Energy Facilities Agricultural Impact Mitigation Act (Act), Public Act 100-0598. They were developed with the cooperation of agricultural agencies, organizations, Landowners, Tenants, drainage contractors, and wind energy companies to comprise this Agricultural Impact Mitigation Agreement (AIMA). This AIMA is made and entered into between the Commercial Wind Energy Facility Owner and the IDOA.

, LLC, an limited liability company authorized to transact business in Illinois, hereafter referred to as "Commercial Wind Energy Facility Owner or Facility Owner", plans to develop an approximately MW Commercial Wind Energy Facility or "Facility" in County, which will consist of approximately turbines, access roads, an underground collection line, a switchyard, a substation, and an operation and maintenance building site.

If construction does not commence within four years after this AIMA has been fully executed, this AIMA will be revised, with the Facility Owner's input, to reflect the IDOA's most current Wind Farm Construction and Deconstruction Standards and Policies. This AIMA, and any updated AIMA, will be filed with the County Board by the Facility Owner.

This AIMA is applicable to Construction and Deconstruction activities occurring partially or wholly on privately owned agricultural land.

**Conditions of the AIMA**

The actions set forth in this AIMA shall be implemented in accordance with the conditions listed below:

- A. All Construction or Deconstruction activities may be subject to County or other local requirements. However, the specifications outlined in this AIMA shall be the minimum standards applied to all Construction or Deconstruction activities.
- B. Except for Section 21(B-F), all actions set forth in this AIMA are subject to modification through negotiation by Landowners and a representative of the Facility Owner, provided such changes are negotiated in advance of any respective Construction or Deconstruction activities.

- C. The Facility Owner may negotiate with Landowners to carry out the mitigative actions that Landowners wish to perform themselves. In such instances, the Facility Owner will offer Landowners the area commercial rate for their machinery and labor costs.
- D. All mitigative actions will extend to associated future Construction, maintenance, repairs, and Deconstruction of the Commercial Wind Energy Facility.
- E. The Facility Owner will exercise Best Efforts to determine all Landowners and Tenants affected by the Construction and Deconstruction of a Facility. The Facility Owner shall keep the Landowners and Tenants informed of the project's status, meetings, and other factors that may have an impact upon their farming operations.
- F. The Facility Owner agrees to include a statement of its adherence to this AIMA in any environmental assessment and/or environmental impact statement that may be prepared in connection with the Project.
- G. Execution of this AIMA shall be made a condition of any Conditional/Special Use Permit. A copy of this AIMA shall be mailed to each Landowner. Within 30 days of execution of this AIMA, the Facility Owner shall provide postage and mailing labels to the IDOA for mailing to all Landowners. If the Facility Owner becomes aware that a Landowner was not included on the list of Landowners to which a copy of this AIMA was mailed, the Facility Owner shall notify the Department and provide postage and a mailing label as soon as possible.

In the case of a new Underlying Agreement with a Landowner, the Facility Owner shall incorporate this AIMA into such Underlying Agreement.

- H. The Facility Owner will implement all mitigative actions to the extent that they do not conflict with the requirements of any applicable federal, state and local rules and regulations and other permits and approvals that are obtained by the Facility Owner for the Project.
- I. If any mitigative action(s) is held to be unenforceable, no other provision shall be affected by that holding, and the remainder of the mitigative actions shall be interpreted as if they did not contain the unenforceable provision.
- J. No later than 45 days prior to the Construction and/or Deconstruction of a Commercial Wind Energy Facility, the Facility Owner will provide the Landowner(s) with a toll-free number the Landowner can call to alert the Facility Owner should the Landowner(s) have questions or concerns with the work which is being done or has been carried out on his/her property.
- K. If the Facility is sold or transferred, the Facility Owner assuming ownership of the facility shall provide notice of such sale or transfer within ninety (90) days to the County and to Landowners, and the existing Financial Assurance requirements, plus the other terms of this AIMA, shall apply to the new Facility Owner.
- L. After construction, the Facility Owner will provide the IDOA with "as built" drawings (strip maps) showing the location of all tile lines damaged in the construction of the Wind Farm. The drawings and GPS tile lines repair coordinates will be provided on a county-by-county basis for distribution by the IDOA to the respective local Soil and Water Conservation District (SWCD) for the purpose of assisting Landowners with future drainage needs.
- M. In addition, after all construction is complete, all affected Landowners will receive a copy of the tile repairs location map with GPS coordinates identified as the electric cable crosses their property.

- N. The Facility Owner shall comply with all local, state and federal laws and regulations, specifically including the worker protection standards to protect workers from pesticide exposure.

## Definitions

|                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|----------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Abandonment -                                            | Occurs when Deconstruction has not been completed within 18 months after the wind energy facility reaches the end of its Useful Life.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Aboveground Cable -                                      | Electrical power lines installed above grade to be utilized for conveyance of power from the Wind Turbine(s) to the Wind Facility substation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Agricultural Impact Mitigation Agreement (AIMA) -        | The Agreement between the Commercial Wind Energy Facility Owner and the Illinois Department of Agriculture described herein.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Agricultural Land -                                      | Land used for Cropland, hayland, pasture land, managed woodlands, truck gardens, farmsteads, commercial ag-related facilities, feedlots, livestock confinement systems, land on which farm buildings are located, and land in government set-aside programs used for purposes as set forth above.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Best Efforts -                                           | Diligent, good faith, and commercially reasonable efforts to achieve a given objective or obligation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Commercial Operation Date -                              | The calendar date on which the Commercial Wind Energy Facility produces power for commercial sale, not including test power. Within ten (10) calendar days of the Commercial Operation Date, the Commercial Wind Energy Facility Owner shall notify the County and the Department of the Commercial Operation Date in writing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Commercial Wind Energy Facility (Facility) -             | A wind energy conversion facility of equal or greater than 500 kilowatts in total nameplate generating capacity. "Commercial Wind Energy Facility" includes a wind energy conversion facility seeking an extension of a permit to construct granted by a county or municipality before the effective date of this Act. "Commercial Wind Energy Facility" does not include a wind energy conversion facility: (1) that has submitted a complete permit application to a county or municipality and for which the hearing on the completed application has commenced on the date provided in the public hearing notice, which must be before the effective date of this Act; (2) for which a permit to construct has been issued before the effective date of this Act; or (3) that was constructed before the effective date of this Act. |
| Commercial Wind Energy Facility Owner (Facility Owner) - | A commercial enterprise that owns or operates a Wind Energy Facility of equal to or greater than 500 kilowatts in total nameplate capacity.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| County -                                                 | The County where the Commercial Wind Energy Facility is located.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Construction -        | The installation, preparation for installation and/or repair of a Commercial Wind Energy Facility.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Cropland -            | Land used for growing row crops, small grains, or hay; includes land which was formerly used as cropland, but is currently in a government set-aside program and pastureland comprised of Prime Farmland.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Deconstruction -      | The removal of a Commercial Wind Energy Facility from the property of a Landowner and the restoration of that property as provided in the Agricultural Impact Mitigation Agreement. The terms "Deconstruction" and "Decommissioning" have the same meaning and, therefore, may be interchanged with each other.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Deconstruction Plan - | <p>A plan prepared by a Professional Engineer, at the Commercial Wind Energy Facility Owner expense, that includes:</p> <ol style="list-style-type: none"> <li>(1) the estimated Deconstruction cost per turbine, in current dollars at the time of filing, for the Commercial Wind Energy Facility, taking into account, among other things: <ol style="list-style-type: none"> <li>i the number of Wind Turbines and related Commercial Wind Energy Facilities involved,</li> <li>ii the original Construction costs of the Commercial Wind Energy Facilities,</li> <li>iii the size and capacity of the Wind Turbines,</li> <li>iv the salvage value of the Commercial Wind Energy Facilities,</li> <li>v the Construction method and techniques for the Wind Turbines and other Commercial Wind Energy Facilities, and</li> </ol> </li> <li>(2) a comprehensive detailed description of how the Commercial Wind Energy Facility Owner plans to pay for the Deconstruction of the Commercial Wind Energy Facility.</li> </ol> |
| Department -          | The Illinois Department of Agriculture (IDOA).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Financial Assurance - | A reclamation bond or other commercially available financial assurance that is acceptable to the County, with the County as primary beneficiary and the Landowners as secondary beneficiaries.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Landowner -           | Any person with an ownership interest in property that is used for agricultural purposes and that is party to an Underlying Agreement.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Prime Farmland -      | Agricultural Land comprised of soils that are defined by the USDA Natural Resources Conservation Service (NRCS) as being "prime" soils (generally considered the most productive soils with the least input of nutrients and management).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

|                                                      |                                                                                                                                                                                                                                                                                                                                                     |
|------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Professional Engineer -                              | An engineer licensed to practice engineering in the State of Illinois, and who is determined to be qualified to perform the work described herein by mutual agreement of the County and the Commercial Wind Energy Facility Owner.                                                                                                                  |
| Soil and Water Conservation District - (SWCD)        | A local unit of government that provides technical and financial assistance to eligible landowners for the conservation of soil and water resources.                                                                                                                                                                                                |
| Tenant -                                             | Any person lawfully residing or leasing/renting land that is subject to an Underlying Agreement.                                                                                                                                                                                                                                                    |
| Topsoil -                                            | The uppermost layer of the soil that has the darkest color or the highest content of organic matter; more specifically, it is defined as the "A" horizon.                                                                                                                                                                                           |
| Underlying Agreement -                               | The written agreement with a Landowner(s) including, but not limited to, an easement, option, lease, or license under the terms of which another person has constructed, constructs, or intends to construct a Commercial Wind Energy Facility on the property of the Landowner.                                                                    |
| Underground Cable -                                  | Electrical power lines installed below grade to be utilized for conveyance of power from the Wind Turbine(s) to the Wind Facility substation.                                                                                                                                                                                                       |
| USDA Natural Resources Conservation Service (NRCS) - | NRCS provides America's farmers with financial and technical assistance to voluntarily put conservation on the ground, not only helping the environment but agricultural operations too.                                                                                                                                                            |
| Useful Life -                                        | A Commercial Wind Energy Facility will be presumed to have no remaining Useful Life if: (1) no electricity is generated for a continuous period of twelve (12) months and (2) the Commercial Wind Energy Facility Owner fails, for a period of 6 consecutive months, to pay the Landowner amounts owed in accordance with the Underlying Agreement. |
| Wind Turbine -                                       | A wind energy conversion unit equal to or greater than 500 kilowatts in total nameplate generating capacity.                                                                                                                                                                                                                                        |

## **Construction and Deconstruction Requirements**

### **1. Support Structures**

- A. On Agricultural Land, only single pole support structures will be used for overland transmission not located adjacent to the Commercial Wind Energy Facility substation.
- B. Where the electric line is adjacent and parallel to highway and/or railroad right-of-way, but on privately owned property, the support structures will be placed as close as reasonably practicable and allowable by the applicable County Engineer or other applicable authorities to the highway or railroad right-of-way. The only exceptions may be at jogs or weaves on the highway alignment or along highways or railroads where transmission and distribution lines are already present.
- C. The highest priority will be given to locating the electric line parallel and adjacent to highway and/or railroad right-of-way. When this is not possible, Best Efforts will be expended to place all support poles in such a manner so as to minimize their placement on Cropland (i.e., longer than normal spans will be utilized when traversing Cropland).

### **2. Aboveground Facilities**

Locations for Facilities shall be selected in a manner so as to be as unobtrusive as reasonably possible to ongoing agricultural activities occurring on the land that contains the facilities. The Facility Owner's compliance with applicable local, county, state, and federal statutes, rules, regulations, and ordinances, and its securing any variations or waivers to such statutes, rules, regulations, and ordinances in accordance with applicable law, in selecting such locations shall constitute compliance with this provision.

### **3. Guy Wires and Anchors**

- A. Best Efforts will be made to place guy wires and their anchors out of cropland, pastureland and hayland, placing them instead along existing utilization lines and on land not used for row crops, pasture or hay. Where this is not feasible, Best Efforts will be made to minimize guy wire impact on Cropland.
- B. All guy wires will be shielded with highly visible guards.

### **4. Underground Cabling Depth**

- A. Underground electrical cables will be buried with:
  - 1. a minimum of 5 feet of top cover where it crosses Cropland.
  - 2. a minimum of 5 feet of top cover where it crosses pasture land or other Agricultural Land comprised of soils that are classified by the USDA as being prime soils.
  - 3. a minimum of 3 feet of top cover where it crosses pasture land and other Agricultural Land not comprised of prime soils.
  - 4. a minimum of 3 feet of top cover where it crosses wooded/brushy land.

- B. Notwithstanding the foregoing, in those areas where (i) rock in its natural formation and/or (ii) a continuous strata of gravel exceeding 200 feet in length are encountered, the minimum top cover will be 30 inches.

## **5. Topsoil Removal and Replacement**

- A. Any excavation shall be performed in a manner to preserve topsoil. Best Efforts will be made to store the topsoil near the excavation site in such a manner that it will not become intermixed with subsoil materials.
- B. Best Efforts will be made to store all disturbed subsoil material near the excavation site and separate from the topsoil.
- C. When backfilling an excavation site, the stockpiled subsoil material will be placed back into the excavation site before replacing the topsoil.
- D. Refer to Item No. 7.A. through 7.D for procedures pertaining to rock removal from the subsoil and topsoil.
- E. Refer to Items No. 8.A. through 8.D. for procedures pertaining to the alleviation of compaction of the topsoil.
- F. Best Efforts will be performed to place the topsoil in a manner so that after settling occurs, the topsoil's original depth and contour (with an allowance for settling) will be restored as close as reasonably practicable. The same shall apply where excavations are made for road, stream, drainage ditch, or other crossings. In no instance will the topsoil materials be used for any other purpose unless agreed to otherwise by the Landowner.
- G. Excess subsoil material resulting from wind turbine foundation excavation shall be removed from Landowner's property, unless otherwise agreed to by Landowner.
- H. Topsoil stripping or separation is not required for the excavation of narrow trenches, those 24 inches wide or less.

## **6. Repair of Damaged Tile Lines**

If underground drainage tile is damaged by Construction or Deconstruction, it will be repaired in a manner that assures the tile line's proper operation at the point of repair. The following shall apply to the tile line repair:

- A. The Facility Owner will work with the Landowner to identify the tile lines traversing the property included within the Underlying Agreement which will be crossed or disturbed by the construction of the Facility. All tile lines identified in this manner will be shown on the Construction and Deconstruction Plans and staked or flagged in the locations where expected crossing or disturbance is anticipated prior to Construction or Deconstruction to alert Construction and Deconstruction crews to the possible need for tile line repairs.
- B. Tile lines that are damaged, cut, or removed shall be staked or flagged with stakes or flags placed in such a manner they will remain visible until the permanent repairs are

completed. In addition, the location of damaged drain tile lines will be recorded using Global Positioning Systems (GPS) technology.

- C. If water is flowing through any damaged tile line, the Facility Owner shall utilize Best Efforts to immediately and temporarily repair the tile line until such time that the Facility Owner can make permanent repairs. If the tile lines are dry and water is not flowing, temporary repairs are not required if the permanent repairs can be made by the Facility Owner within 14 days (weather and soil conditions permitting) of the time damage occurred; however, the exposed tile lines will be screened or otherwise protected to prevent the entry of foreign materials or animals into the tile lines.
- D. Where tile lines are severed by an excavation trench, repairs shall be made using the IDOA Drain Tile Repairs, Figures 1 and 2.

If there is any dispute between the Landowner and the Facility Owner on the method of permanent tile line repair, the appropriate Soil and Water Conservation District's opinion shall be considered by the Facility Owner and the Landowner.

- E. To the extent practicable, there will be a minimum of one foot of separation between the tile line and the Underground Cable whether the Underground Cable passes over or under the tile line. If the tile line was damaged as part of the excavation for installation of the Underground Cable, the Underground Cable will be installed with a minimum one foot clearance below or over the tile line to be repaired or otherwise to the extent practicable.
- F. The original tile line alignment and gradient shall be maintained. A laser transit shall be used to ensure the proper gradient is maintained. A laser operated tiling machine shall be used to install or replace tiling segments of 100 linear feet or more.
- G. During Construction stage, all permanent tile line repairs must be made within fourteen (14) days of identification or notification of the damage, weather and soil conditions permitting. At other times, such repairs must be made at a time mutually agreed upon by the Facility Owner and the Landowner.
- H. Following Construction and/or Deconstruction activities, the Facility Owner will utilize best practices to restore the drainage in the area to the condition it was before the commencement of the Construction/Deconstruction activities. If the Facility Owner cannot agree upon a reasonable method to complete this restoration, the Facility Owner may – but is not required to – implement the recommendations of the appropriate County SWCD and such implementation would resolve the dispute.
- I. Following completion of the work, the Facility Owner will be responsible for correcting or paying for the correction of all tile line repairs that fail due to Construction and/or Deconstruction, provided any such failure was identified by Landowner within twenty-four (24) months after Construction or Deconstruction. The Facility Owner will not be responsible for tile line repairs that the Facility Owner pays the Landowner to perform. Facility Owner shall use Best Efforts to utilize a local drain tile repair company.

## **7. Rock Removal**

The following rock removal procedures only pertain to rocks found in the uppermost 42 inches of soil, the common freeze zone in Illinois, which emerged on Landowner property as a result of Construction and/or Deconstruction.

- A. Before replacing any Topsoil, Best Efforts will be taken to remove all rocks greater than 3 inches in any dimension from the surface of exposed subsoil which were brought to the site as a result of Construction and/or Deconstruction.
- B. As topsoil is replaced, all rocks greater than 3 inches in any dimension will be removed from the topsoil which emerged at the site as a result of Construction and/or Deconstruction activities.
- C. If trenching, blasting, or boring operations are required through rocky terrain, precautions will be taken to minimize the potential for oversized rocks to become interspersed with adjacent soil material.
- D. Rocks and soil containing rocks removed from the subsoil areas, topsoil, or from any excavations, will be hauled off the Landowner's premises or disposed of on the Landowner's premises at a location that is mutually acceptable to the Landowner and the Facility Owner.

## **8. Compaction and Rutting**

- A. Unless the Landowner opts to do the restoration work, after the topsoil has been replaced, all areas that were traversed by vehicles and Construction and/or Deconstruction equipment will be ripped at least 18 inches deep, and all pasture and woodland will be ripped at least 12 inches deep to the extent practicable. The existence of tile lines or underground utilities may necessitate less depth. The disturbed area will then be disked. Decompaction shall be conducted according to the guidelines provided in Appendices A and B.
- B. To the extent practicable, all ripping and disking will be done at a time when the soil is dry enough for normal tillage operations to occur on land adjacent to the right-of-way.
- C. The Facility Owner will restore all rutted land to a condition as close as possible to its original condition.
- D. If there is any dispute between the Landowner and the Facility Owner as to what areas need to be ripped/disked or the depth at which compacted areas should be ripped/disked, the appropriate County SWCD's opinion shall be considered by the Facility Owner and the Landowner.

## **9. Construction During Wet Weather**

Except as provided below, construction activities are not allowed on farmland where normal farming operations, such as plowing, disking, planting or harvesting, cannot take place due to excessively wet soils. Wet weather conditions are to be determined on a field by field basis and not for the project as a whole.

- A. Construction activities on prepared surfaces, surfaces where topsoil and subsoil have been removed, heavily compacted in preparation, or otherwise stabilized (e.g.

through cement mixing) may occur at the discretion of the Facility Owner in wet weather conditions.

- B. Construction activities on unprepared surfaces will be done only when work will not result in rutting which results in a mixing of subsoil and topsoil. Determination as to the potential of subsoil and topsoil mixing will be in consultation with the underlying Landowner, or, if approved by the Landowner, his/her designated Tenant.

#### **10. Land Leveling**

- A. Following the completion of Construction and/or Deconstruction of a Commercial Wind Energy Facility, the Facility Owner will utilize Best Efforts to restore the disturbed area to its original pre-construction elevation and contour should uneven settling occur or surface drainage problems develop as a result of said activity.
- B. If, within twenty-four (24) months after Construction or Deconstruction, uneven settling occurs or surface drainage problems develop as a result of the Construction or Deconstruction of a Facility, the Facility Owner will provide such land leveling services within 45 days of a Landowner's written notice, weather and soil conditions permitting.
- C. If there is any dispute between the Landowner and the Facility Owner as to what areas need additional land leveling beyond that which is done at the time of Construction, the Facility Owner may – but is not required to – implement the recommendations of the appropriate SWCD and such implementation will resolve the dispute.

#### **11. Prevention of Soil Erosion**

- A. The Facility Owner will work with Landowners to prevent excessive erosion on land that has been disturbed by Construction or Deconstruction of a Commercial Wind Energy Facility. Consultation with the local SWCD by the Facility Owner will take place to determine the appropriate methods to be implemented to control erosion. This is not a requirement, however, if the land is bare Cropland that the Landowner intends to leave bare until the next crop is planted.
- B. If the Landowner and Facility Owner cannot agree upon a reasonable method to control erosion on the Landowner's right-of-way, the Facility Owner may – but is not required to – implement the recommendations of the appropriate SWCD and such implementation will resolve the dispute.

#### **12. Repair of Damaged Soil Conservation Practices**

Consultation with the local SWCD by the Facility Owner will be carried out to determine if there are soil conservation practices (such as terraces, grassed waterways, etc.) that will be damaged by the Construction and/or Deconstruction of a Commercial Wind Energy Facility. Those conservation practices will be restored to their preconstruction condition as close as reasonably practicable in accordance with USDA Natural Resources Conservation Service technical standards. All repair costs shall be borne by the Facility Owner.

**13. Damages to Private Property**

The Facility Owner will reasonably compensate Landowners for damages caused by the Facility Owner. Damage to Cropland will be reimbursed to the Landowner as prescribed in the applicable Underlying Agreement.

**14. Clearing of Trees and Brush**

- A. If trees are to be removed for the Construction or Deconstruction of a Commercial Wind Energy Facility, the Facility Owner will consult with the Landowner to determine if there are trees of commercial or other value to the Landowner.
- B. If there are trees of commercial or other value to the Landowner, the Facility Owner will allow the Landowner the right to retain ownership of the trees to be removed with the disposition of the removed trees to be negotiated prior to the commencement of land clearing.
- C. Unless otherwise restricted by federal, state or local regulations, the Facility Owner will follow the Landowner's desires regarding the removal and disposal of trees, brush, and stumps of no value to the Landowner by burning, burial, etc., or complete removal from any affected property.

**15. Interference with Irrigation Systems**

- A. If the Construction or Deconstruction of a Commercial Wind Energy Facility interrupts an operational (or soon to be operational) spray irrigation system, the Facility Owner will establish with the Landowner an acceptable amount of time the irrigation system may be out of service.
- B. If, as a result of Construction or Deconstruction of a Facility, an irrigation system interruption results in crop damages, the Landowner will be compensated for all such crop damages per the applicable Underlying Agreement.
- C. If it is feasible and mutually acceptable to the Facility Owner and the Landowner, temporary measures will be implemented to allow an irrigation system to continue to operate across land on which a Facility is also being Constructed or Deconstructed.

**16. Access Roads**

- A. To the extent practicable, access roads will be designed to not impede surface drainage and will be built to minimize soil erosion on or near the access roads.
- B. Access roads may be left intact through mutual agreement of the Landowner and the Facility Owner unless otherwise restricted by federal, state, or local regulations after the Useful Life.
- C. If the access roads are removed, Best Efforts will be expended to assure that the land shall be restored to equivalent condition(s) as existed prior to their construction, or as otherwise agreed to by the Facility Owner and the Landowner. All access roads that are removed shall be ripped to a depth of 18 inches. All ripping will be done consistent with Items 8.A. through 8.D.

**17. Weed Control**

- A. The Facility Owner will provide for weed control in a manner that prevents the spread of weeds onto agricultural land affected by Construction or Deconstruction. Spraying will be done by a pesticide applicator that is appropriately licensed for doing such work in the State of Illinois.
- B. The Facility Owner will be responsible for reimbursing all reasonable costs incurred by owners of agricultural land affected by Construction or Deconstruction where it has been determined that weeds have spread from land impacted by the Facility. Reimbursement is contingent upon written notice to the Facility Owner and failure to respond within forty-five (45) days after notice is received.

**18. Pumping of Water from Open Excavations**

- A. In the event it becomes necessary to pump water from open excavations, the Facility Owner will pump the water in a manner that will avoid damaging agricultural land affected by Construction or Deconstruction. Such damages include, but are not limited to: inundation of crops for more than 24 hours, deposition of sediment in ditches and other water courses, and the deposition of subsoil sediment and gravel in fields and pastures.
- B. If it is impossible to avoid water-related damages as described in Item 18.A. above, the Facility Owner will compensate the Landowner for damages to crops as prescribed in the applicable Underlying Agreement.
- C. All pumping of water shall comply with existing drainage laws, local ordinances relating to such activities and any other applicable laws, specifically including the Clean Water Act.

**19. Advance Notice of Access to Private Property**

- A. The Facility Owner will provide the Landowner or Tenant with a minimum of 48 hours prior notice before accessing his/her property for the purpose of Construction or Deconstruction of a Commercial Wind Energy Facility.
- B. Prior notice shall consist of either: (i) a personal contact, telephone contact or email contact, whereby the Landowner or tenant is informed of the Facility Owner's intent to access the land; or (ii) the Facility Owner mails or hand delivers to the Landowner or tenant's home a dated, written notice of the Facility Owner's intent. Such written or hand delivered notice shall include a toll-free number at which agents of the Facility Owner can be reached. The Landowner or tenant need not acknowledge receipt of the written notice before the Facility Owner can enter the Landowner's property.

**20. Indemnification**

The Commercial Wind Energy Facility Owner will indemnify all Landowners, their heirs, successors, legal representatives, and assigns from and against all claims, injuries, suits, damages, costs, losses, and reasonable expenses resulting from or arising out of Construction and/or Deconstruction, including damage to such Commercial Wind Energy Facility or any of its appurtenances, except where claims, injuries, suits, damages, costs,

losses, and expenses are caused by the negligence or intentional acts, or willful omissions of such Landowners, and/or the Landowners heirs, successors, legal representatives, and assigns. In such circumstances, the Landowners, and the Landowners' heirs, successors, legal representatives, and assigns will indemnify the Facility Owner, its heirs, successors, legal representatives, and assigns from and against said claims, injuries, suits, damages, costs, losses, and reasonable expenses including but not limited to attorneys' fees and costs.

## **21. Deconstruction of Commercial Wind Energy Facilities and Financial Assurance**

- A. Deconstruction of a Facility shall include the removal/disposition of the following equipment/facilities utilized for operation of the Facility and located on Landowner property:
  - 1. Wind Turbine towers and blades;
  - 2. Wind Turbine generators;
  - 3. Wind Turbine foundations (to depth of 5 feet);
  - 4. Transformers;
  - 5. Collection/interconnection substation (components, cable, and steel foundations), provided, however, that electrical collection cables at a depth of 5 feet or greater may be left in place;
  - 6. Overhead collection system;
  - 7. Operations/maintenance buildings, spare parts buildings and substation/switching gear buildings unless otherwise agreed to by the Landowner;
  - 8. Access Road(s) (unless Landowner requests in writing that the access road is to remain);
  - 9. Operation/maintenance yard/staging area unless otherwise agreed to by the Landowner; and
  - 10. Debris and litter generated by Deconstruction and Deconstruction crews.
- B. The Facility Owner shall, at its expense, complete Deconstruction of a Commercial Wind Energy Facility within eighteen (18) months after the end of the Useful Life of the Facility.
- C. During the County permit process, the Facility Owner shall file with the County, a Deconstruction Plan. A second Deconstruction Plan shall be filed with the County on or before the end of the tenth year of the Commercial Operation Date.
- D. The Facility Owner shall provide the County with Financial Assurance to cover the estimated costs of Deconstruction of the Commercial Wind Energy Facility. Provision of this Financial Assurance shall be phased in over the first 11 years of the Project's operation as follows:
  - 1. On or before the first anniversary of the Commercial Operation Date, the Facility Owner shall provide the County with Financial Assurance to cover ten (10) percent of the estimated costs of Deconstruction of the Facility as determined in the Deconstruction Plan provided during the county permit process.

2. On or before the sixth anniversary of the Commercial Operation Date, the Facility Owner shall provide the County with Financial Assurance to cover fifty (50) percent of the estimated costs of Deconstruction of the Facility as determined in the Deconstruction Plan provided during the county permit process.
3. On or before the eleventh anniversary of the Commercial Operation Date, the Facility Owner shall provide the County with Financial Assurance to cover one hundred (100) percent of the estimated costs of Deconstruction of the Facility as determined in the Deconstruction Plan provided during the tenth year of the Commercial Operation Date.

The Financial Assurance shall not release the surety from liability until the Financial Assurance is replaced. The salvage value of the Facility may only be used to reduce the estimated costs of Deconstruction in the Deconstruction Plan if the County agrees that all interests in the salvage value are subordinate or have been subordinated to that of the County if Abandonment occurs.

- E. The County may – but is not required to – reevaluate the estimated costs of Deconstruction of any Commercial Wind Energy Facility after the tenth anniversary, and every five years thereafter, of the Commercial Operation Date which reevaluation must be performed by an independent third party Professional Engineer licensed in the State of Illinois. The County shall provide the Facility Owner with a copy of any reevaluation report. Based on any reevaluation, the County may require changes in the level of Financial Assurance used to calculate the phased coverages described in Section 21 D. required from the Facility Owner. The Facility Owner shall be responsible for the cost of any reevaluation by a third party Professional Engineer.
- F. Upon Abandonment, the County may take all appropriate actions for Deconstruction, including drawing upon the Financial Assurance. In the event the County declines to take any action for Deconstruction, the Landowners may draw upon the Financial Assurance.

### **Concurrence of the Parties to this AIMA**

The Illinois Department of Agriculture and \_\_\_\_\_, LLC concur that this AIMA is the complete AIMA governing the mitigation of agricultural impacts that may result from the construction of the wind farm project in \_\_\_\_\_ County within the State of Illinois.

The effective date of this AIMA commences on the date of execution.

**STATE OF ILLINOIS  
DEPARTMENT OF AGRICULTURE**

\_\_\_\_\_  
By Jerry Costello II, Director

\_\_\_\_\_  
By John Teefey, General Counsel

801 E. Sangamon Avenue, 62702  
State Fairgrounds, POB 19281  
Springfield IL 62794-9281

\_\_\_\_\_, 2022

**a state name limited liability company, LLC**

\_\_\_\_\_  
By \_\_\_\_\_, title

address

\_\_\_\_\_, 2022

## **APPENDIX B**

IDOA Decompaction Standards

IDOA Drain Tile Repairs, Figures 1-2

## Guidelines for Conducting Proper and Successful Decompaction

1. Decompaction is required when all three conditions apply.
  - A. the area has been trafficked or traversed by vehicles or construction equipment, and
  - B. the soil penetrometer readings are 300 psi or greater, and
  - C. The soil strength (psi) in the right-of-way area is greater than that of the non-trafficked area.
2. An Environmental and/or Agricultural Inspector (AI), with experience and training in the proper identification of compacted soil and operation methods of deep decompaction tools is required to observe the daily operation of the ripper/subsoiler to ensure the conditions are appropriate for decompaction efforts and that the proper equipment is utilized and that equipment is set-up and operated correctly.
3. To achieve the most effective shatter of the compacted soil the following guidelines have been established:
  - A. Conduct ripping when the soil is dry. Follow the “Soil Plasticity Test Procedures” detailed in Appendix B to determine if soil conditions are adequately dry to conduct decompaction efforts.
  - B. Deep ripping shall be conducted using a ripper or subsoiling tool with a shank length of no less than 18 inches and a shank spacing of approximately the same measurement as the shank length.
  - C. Use a ripper with a knife length of no less than 2 inches more than the desired depth of decompaction.
  - D. To best promote revegetation and restore crop production, a total depth of 30 or more inches of soil (topsoil plus subsoil) is required.
  - E. The minimum depths of decompaction stated above in 3.D. are required where possible. A safe distance from sub-surface structures (tile drains, pipelines, buried utilities, bedrock, etc.) must be maintained at all times. Where such structures exist, a lesser depth of decompaction will be required to prevent damage to equipment and the structures as well as to maintain a safe work environment. The allowable decompaction depth in these instances will be determined on a site by site basis.
  - F. When the knives are in the soil to the desired depth, the tongue of the ripper should be parallel to the surface of the ground.
  - G. Select a tractor that has enough horsepower to pull the ripper at a speed of 1.5 to 2 mph and whose footprint is of equal or lesser width than the ripper. Tracked equipment is preferred and typically required to achieve this criteria.
  - H. The ripper shanks should not create ruts, channels, or mixing of the sub-soil with topsoil. A speed of 1.5 to 2 mph is recommended to minimize the risk of rutting and soil mixing. The ideal operating speed can vary with soil characteristics, tractor and ripping tool used. An excessive travel speed will often increase mixing of soil horizons.

- I. When the equipment is set up and operated correctly, the ripper should create a wave across the surface of the ground as it lifts and drops the soil.
- J. Make one ripping pass through the compacted area. Using a penetrometer, the AI will measure the PSI between the ripped knife tracks to determine if the single ripping pass was successful. Additional passes should only be used where needed as they may reduce the effectiveness of the ripping by recompacting the soil shattered in the previous pass.
- K. If the first pass does not successfully decompact the soil, additional passes will be needed. Should multiple passes of the ripper be needed to achieve decompaction between the knives tracks of the ripping tool, the subsequent passes should be positioned so the knife tracks from the previous pass are split by the second pass. If three or more passes have been made and sufficient decompaction has not yet been achieved the AI may choose to halt further decompaction efforts in that area until conditions improve or better methods are determined.
- L. Following ripping, all stone and rock three or more inches in size which has been lifted to the surface shall be collected and removed from agricultural areas.

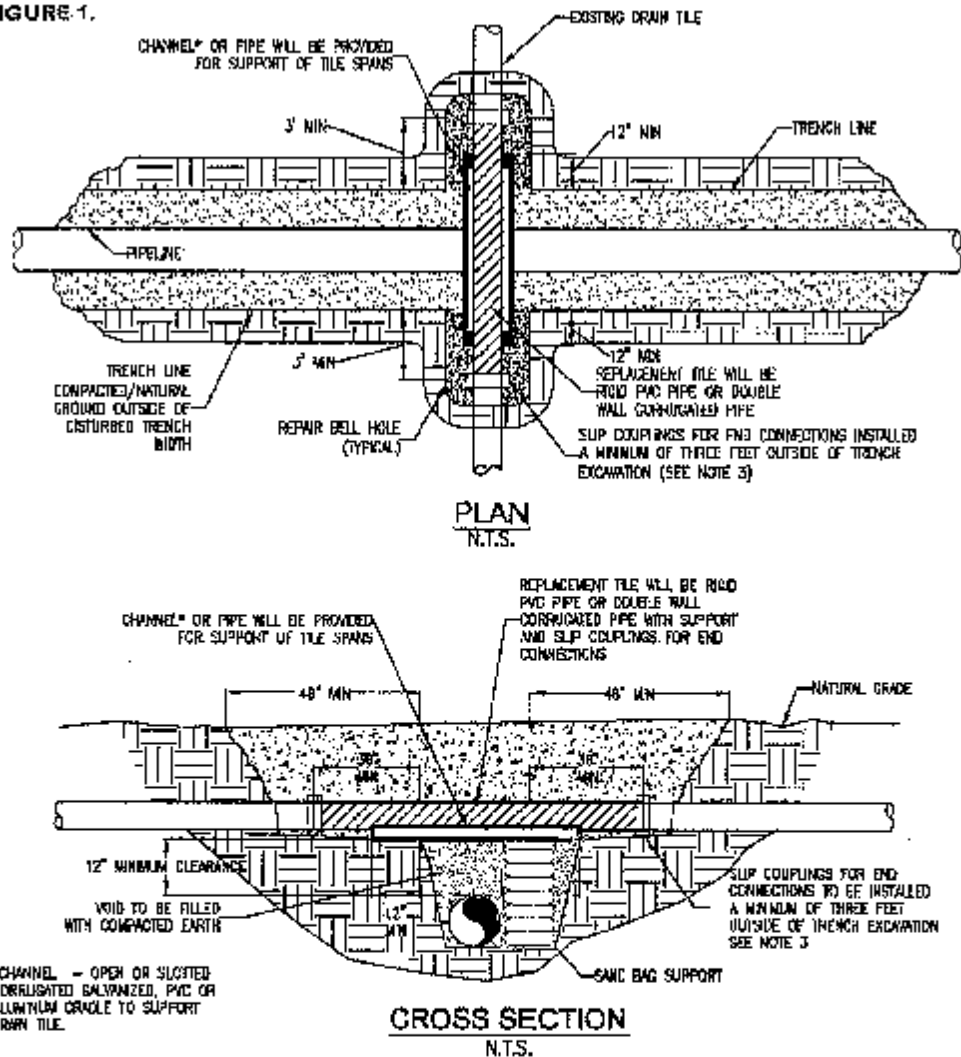
M. After ripping has been conducted, do not allow unnecessary traffic on the ripped area. In agricultural lands and croplands that will not be replanted to vegetation by the Company, recommend to landowners to plant a cover crop (cereal rye, clover, alfalfa, tillage radish, turnips, etc.) following decompaction. Reduced compaction created by the ripper pass will not remain over time without subsequent root penetration. Root penetration into the shattered soil is necessary to establish permanent stabilized channels to conduct air and water into the soil profile. Two good sources for landowner cover crop education are <http://www.mccc.msu.edu/CCinfo/cropbycrop.html> and <http://mcccdev.anr.msu.edu/>. For local expertise, consult with your county's Soil and Water Conservation District /USDA Natural Resource Conservation Service (NRCS) office for cover crop selection and compliance with NRCS planting deadlines.

## Soil Plasticity Test Procedures

The Agricultural Inspector will test the consistency of the surface soil to a depth of approximately 4 to 8 inches using the Field Plasticity Test procedure developed from the *Annual Book of ASTM Standards, Plastic Limit of Soils* (ASTM D-4318).

1. Pull a soil plug from the area to be tilled, moved, or trafficked to a depth of 4-8 inches.
2. Roll a portion of the sample between the palms of the hands to form a wire with a diameter of one-eighth inch.
3. The soil consistency is:
  - A. Tillable (able to be worked) if the soil wire breaks into segments not exceeding  $\frac{3}{8}$  of an inch in length.
  - B. Plastic (not tillable) if the segments are longer than  $\frac{3}{8}$  of an inch before breaking.
4. This Procedure is to be used to aid in determining when soil conditions are dry enough for construction activities to proceed.
5. Once the soil consistency has been determined to be of adequate dryness, the plasticity test is not required again until the next precipitation event.

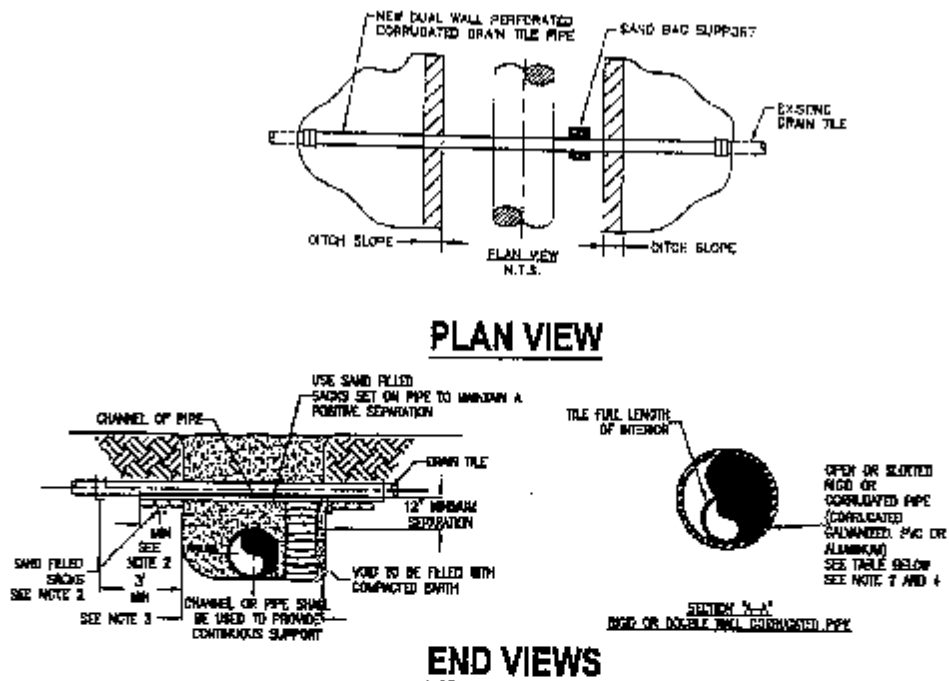
**FIGURE 1.**



## TEMPORARY DRAIN TILE REPAIR

PAGE 1 of 2

FIGURE 2.



| MINIMUM SIZE TABLE |                |           |          |
|--------------------|----------------|-----------|----------|
| TILE SIZE          | CHANNEL SIZE   | PIPE SIZE |          |
| 3"                 | 4" (3.64) (4)  | 4"        | STD. WT. |
| 4"                 | 5" (3.67) (4)  | 5"        | STD. WT. |
| 6"                 | 7" (6.25) (4)  | 6"        | STD. WT. |
| 12"                | 10" (9.84) (4) | 12"       | STD. WT. |

**NOTES:**

1. TILE REPAIR AND REPLACEMENT SHALL MAINTAIN ORIGINAL ALIGNMENT GRADIENT AND WATER FLOW TO THE GREATEST EXTENT POSSIBLE. IF THE TILE NEEDS TO BE RELOCATED, THE INSTALLATION ANGLE MAY VARY DUE TO SITE SPECIFIC CONDITIONS AND LANDOWNER RECOMMENDATIONS.
2. 1'-0" MINIMUM LENGTH OF CHANNEL OR RIGID PIPE (OPEN OR SLOTTED CORRUGATED GALVANIZED PVC OR ALUMINUM CRACKLES) SHALL BE SUPPORTED BY UNDISTURBED SOIL, OR IF CROSSING IS NOT AT RIGHT ANGLES TO PIPELINE, EQUIVALENT LENGTH PERPENDICULAR TO TRENCH. SHIM WITH SAND BAGS TO UNDISTURBED SOIL FOR SUPPORT AND DRAINAGE GRADIENT MAINTENANCE (TYPICAL BOTH SIDES).
3. DRAIN TILES WILL BE PERMANENTLY CONNECTED TO EXISTING DRAIN TILES A MINIMUM OF THREE FEET OUTSIDE OF EXCAVATED TRENCH LINE USING INDUSTRY STANDARDS TO ENSURE PROPER SEAL OF REPAIRED DRAIN TILES INCLUDING SLIP COUPLINGS.
4. DIAMETER OF RIGID PIPE SHALL BE OF ADEQUATE SIZE TO ALLOW FOR THE INSTALLATION OF THE TILE FOR THE FULL LENGTH OF THE RIGID PIPE.
5. OTHER METHODS OF SUPPORTING DRAIN TILE MAY BE USED IF ALTERNATE PROPOSED IS EQUIVALENT IN STRENGTH TO THE CHANNEL/PIPE SECTIONS SHOWN AND IF APPROVED BY COMPANY REPRESENTATIVES AND LANDOWNER IN ADVANCE. SITE SPECIFIC ALTERNATE SUPPORT SYSTEM TO BE DEVELOPED BY COMPANY REPRESENTATIVES AND FURNISHED TO CONTRACTOR FOR SPANS IN EXCESS OF 80', TILE GREATER THEN 12" DIAMETER, AND FOR "HEADER" SYSTEMS.
6. ALL MATERIAL TO BE FURNISHED BY CONTRACTOR.
7. PRIOR TO REPAIRING TILE, CONTRACTOR SHALL PROBE LATERALLY INTO THE EXISTING TILE TO FULL WIDTH OF THE RIGHTS OF WAY TO DETERMINE IF ADDITIONAL DAMAGE HAS OCCURRED. ALL DAMAGED/DISTURBED TILE SHALL BE REPAIRED AS NEAR AS PRACTICABLE TO ITS ORIGINAL OR BETTER CONDITION.

**PERMANENT DRAIN TILE REPAIR**

PAGE 2 of 2

# **BATTERY ENERGY STORAGE SYSTEM (B.E.S.S.) SITING ORDINANCE OF MENARD COUNTY**

A Center of Lincoln's Illinois



Adopted October XX, 2025

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## **1.01 TITLE**

This Ordinance shall be known, cited, and referred to as the Battery Energy Storage System (B.E.S.S.) Siting Ordinance of Menard County.

## **1.02 PURPOSE**

The purpose of this ordinance is to facilitate the construction, installation, and operation of a Battery Energy Storage System (B.E.S.S.) in Menard County in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, conservation lands, historical and other sensitive lands. This ordinance is not intended to abridge safety, health, or environmental requirements contained in other applicable codes, standards, or ordinances.

## **2.01 DEFINITIONS**

**"Applicant"** means the entity who submits to the Menard County an application for the siting and operation of any Battery Energy Storage System (B.E.S.S.). All references to Applicant in this Ordinance shall include Applicant's successors-in-interest and assigns, which includes a Commercial Battery Energy Storage Facility Permittee (as defined herein).

**"AIMA"** Agricultural Impact Mitigation Agreement

**"ANSI"** American National Standards Institute

**"Battery (ies)"** A single cell or group of cells connected electrically in a series, in a parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this ordinance, batteries utilized in consumer products are excluded from these requirements.

**Battery Energy Storage System (BESS):** One or more devices, assembled, capable of storing energy to supply electrical energy at a future time. The term includes, but is not limited to, electrochemical, thermal, and electromechanical technologies. For the purposes of this ordinance, battery energy storage systems are classified as a "Tier 1" or "Tier 2" Battery Energy Storage System as follows:

**Tier 1** - A BESS that has an aggregate energy capacity less than or equal to 600 kWh and, if in a room or enclosed area, consists of only a single energy storage system technology. A rechargeable BESS typically used to provide standby or emergency power and/or uninterruptible power supply, load shedding, load sharing, or similar capabilities relating to the energy consumed by a residence, farm operation or other businesses on site. These are permitted in all zoning districts and shall only be subject to the permitting regulations set forth in the Menard County Zoning Ordinance of 2025.

**Tier 2** - A BESS that has an aggregate energy capacity greater than 600 kWh or is comprised of more than one battery storage technology in a room or enclosed area. Tier 2 BESS are permitted only in Agricultural & Industrial Zoning district classifications.

**“Cell”** The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

**“Commissioning”** A systematic process that provides documented confirmation that a A BESS functions according to the intended design criteria and complies with applicable code requirements.

**“Commercial Operation Date”** means the calendar date on which the Battery Energy Storage Facility produces power for commercial sale, not including test power.

**“Battery Energy Storage Facility” or “Battery Energy Storage System”** means any device or assembly of devices that is ground installed and uses solar energy from the sun for generating electricity for the primary purpose of wholesale or retail sale and not primarily for consumption on the property.

**“Battery Energy Storage Building Permit”** means a permit necessary for the commencement of work performed toward the construction, erection or installation of an approved Battery Energy Storage Facility, Substation, Supporting Facilities or operations and maintenance buildings in connection with a Battery Energy Storage Facility. A Battery Energy Storage Building Permit may be issued by the Menard County after a Battery Energy Storage Facility has obtained a Special Use Permit from the Menard County Board of Commissioners, and the Menard County Zoning Office determines that all conditions, if any, have been satisfied that are imposed by the Special Use Permit. The Battery Energy Storage Building Permit shall require the Applicant to deliver a written "Notice to Proceed" for the Battery Energy Storage Facility to the Menard County Board of Commissioners prior to commencement of construction of the Battery Energy Storage Facility. The term "commencement of construction", as used in this Ordinance, includes any site development work (e.g., demolition, grubbing, grading, excavation, road work, construction of Project-related structures and infrastructure improvements, etc.) regarding the Battery Energy Storage Facility.

**“Battery Energy Storage Facility Permittee”** means an Applicant who applies for and receives a Special Use Permit under this Ordinance for the siting and operation of any Battery Energy Storage Facility or Substation. All references to a Battery Energy Storage Facility Permittee in this Ordinance shall include a Battery Energy Storage Facility Permittee's successors-in-interest and assigns.

**“Dedicated-Use Building”** A building that is built for the primary intention of housing battery energy storage equipment.

**“Financial Assurance” or “Financial Security” or “Decommission Security”** means assurance from a credit worthy party, examples of which include a surety bond (e.g.,

performance and payment bond), trust instrument, cash escrow or irrevocable letter of credit.

**“Fire Code”** The fire code of the State of Illinois as currently in effect and as hereafter amended from time to time.

**“NEC”** National Electric Code

**“NFPA”** National Fire Protection Association

**“Non-Dedicated-Use Building”** All buildings that contain a A BESS and do not comply with the dedicated -use building requirements.

**"Notice to Proceed"** means a written document, named as such, stating that the Applicant expresses an intent to commence construction activities on a Battery Energy Storage Facility and identifying the date on which the construction activities are scheduled to commence.

**"Nonparticipating property"** means real property that is not a participating property.

**"Nonparticipating residence"** means a residence that is located on nonparticipating property and that is existing and occupied on the date that an application for a permit to develop the Battery Energy Storage Facility is filed with the Menard County Zoning Office.

**"Occupied Community building"** means any one or more of the following buildings that is existing and occupied on the date that the application for a permit to develop the Battery Energy Storage Facility is filed with the Menard County Zoning Office: a school, place of worship, day care facility, public library, or community center.

**"Operator"** means the person or entity responsible for the day-to-day operation and maintenance of a Battery Energy Storage Facility, including any third-party subcontractors. The Operator must be a qualified solar power professional. All references to Operator in the Ordinance shall include Operator's successors-in- interest and assigns.

**"Owner"** means the person or entity or entities with an equity interest in a Battery Energy Storage Facility, including their respective successors-in-interest and assigns.

The Owner does not mean:

- (i) the property owner from whom land is leased for locating a Battery Energy Storage Facility (unless the property owner has an equity interest in a Battery Energy Storage Facility); or
- (ii) any person holding a security interest in a Battery Energy Storage Facility solely to secure an extension of credit, or a person foreclosing on such security interest, provided that after foreclosure such person seeks to sell a Battery Energy Storage Facility at the earliest practicable date. This definition includes the definition of Facility Owner as defined in 55 ILCS 5/5-12020.

**"Participating property"** means real property that is the subject of a written agreement between a facility owner and the owner of the real property that provides the facility owner an easement, option, lease, or license to use the real property for the purpose of constructing a Battery Energy Storage Facility or supporting facilities. "Participating property" also includes real property that is owned by a facility owner for the purpose of constructing a Battery Energy Storage Facility or supporting facilities.

**"Participating residence"** means a residence that is located on participating property and that is existing and occupied on the date that an application for a permit to develop the Battery Energy Storage Facility is filed with the Menard County Zoning Office.

**"Professional Engineer"** means a qualified individual who is licensed as a professional engineer in the State of Illinois. Where a structural engineer is required to take some action under terms of this Ordinance, a Professional Engineer may serve as the structural engineer if he or she has the appropriate structural engineering certification in the State of Illinois.

**"Protected lands"** means real property that is subject to a permanent conservation right consistent with the Real Property Conservation Rights Act or registered or designated as a nature preserve, buffer, or land and water reserve under the Illinois Natural Areas Preservation Act.

**"Public Conservation Lands"** means land owned in fee title by Menard County, state or federal agencies and managed specifically for conservation purposes, including but not limited to Menard County, state and federal parks, state and federal wildlife management areas, state scientific and natural areas, and federal wildliferefuges and waterfowl protection areas. Public conservation lands do not include private lands upon which conservation easements have been sold to government agencies or non-profit conservation organizations. Public conservation lands also do not include private lands for which the owners have entered into contractual relationships with government or non-profit conservation organizations for conservation purposes.

**"Special Use Permit"** means a permit approved by the Menard County Board of Commissioners, after a public hearing, allowing a particular use at a specified location subject to compliance with certain specified special conditions as may be required by the Menard County Board of Commissioners.

**"Structural Engineer"** means a qualified individual who is licensed as a professional engineer in the State of Illinois and will analyze, design, plan and research structural components and structural systems to achieve design goals and ensure the safety and comfort of users or occupants. Their work takes account mainly of safety, technical, economic, and environmental concerns, but they may also consider aesthetic and social factors of the WECS project.

**"Substation"** means the apparatus that collects and connects the electrical collection

system of the Battery Energy Storage Facility and increases the voltage for connection with the utility's transmission lines.

**“Supporting Facilities”** means the transmission lines, substations, access roads, storage containers and equipment associated with the generation and storage of electricity by the Battery Energy Storage Facility.

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

**“Zoning Ordinance”** Means the Menard County Zoning Ordinance of 2025, as amended from time to time.

### **3.01 APPLICABILITY**

- A. This Ordinance governs the siting of a BESS and Substations that generate electricity to be sold to wholesale or retail markets.
- B. Owners of a BESS with an aggregate generating capacity of 600 KWH dc or less who locate a BESS(s) on their own property are not subject to this Ordinance.

### **4.01 PROHIBITION**

No Battery Energy Storage Facility or Substation governed by this Ordinance shall be constructed, erected, installed, or located within the Menard County, unless prior siting approval has been obtained for each individual Battery Energy Storage Facility or for a group of Battery Energy Storage Facilities under a joint siting application pursuant to this Ordinance.

### **5.01 SPECIAL USE PERMIT APPLICATION**

- A. To obtain siting approval, the Applicant must first submit a Special Use Permit application to the Menard County Zoning Office to be forwarded onto the Menard County Board of Commissioners for public hearing and approval or denial.
- B. The Special Use Permit requested by the applicant will be understood to be used only in Menard County Agriculture and Industrial Zoning Districts, excluding any property in such district located within a flood plain as determined by the Flood Insurance Rate Map utilized by the National Flood Insurance Program.
- C. Requirements for Tier 1 Battery Energy Storage Systems

**Tier 1 BESS:** shall be permitted in all zoning districts, subject only to the permitting regulation set forth in the Menard County Zoning Ordinance of

2025.

D. Requirements for Tier 2 Battery Energy Storage Systems:

**Tier 2 BESS:** shall require a Special Use Permit application to the Menard County Zoning Board of Appeals and the permitting regulations set forth in the Zoning Ordinance of 2025.

E. The Special Use Permit application shall contain or be accompanied by the following information:

1. A Battery Energy Storage Facility Summary, including, to the extent available:
  - a. a general description of the project, including
    - i. its approximate overall power generating capacity and/or energy capacity, and discharge duration of the BESS,
    - ii. The type(s) of battery(ies) used, and their potential equipment manufacturer(s),
    - iii. A preliminary equipment specification sheet that documents the proposed BESS components, inverters and associated electrical equipment that are to be installed,
    - iv. the maximum height of any battery storage container, racking system or dedicated-use building,,
    - v. An electrical diagram detailing the BESS layout, associated components, and electrical interconnection methods, with all NEC compliant disconnects and other current devices,
    - vi. a project site plan, project phasing plan and project construction timeline plan, and
    - vii. the general location of the project; and
    - viii. transmission location – both above and below ground.
2. A description of the Applicant, Owner, and Operator, including their respective business structures, business ventures and operating history.
3. The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s), if known, and documentation demonstrating land ownership or legal control of the property.

4. A detailed site plan for the BESS Project showing the planned location of each BESS and all related components, including legal descriptions for each site, GPS coordinates of each BESS location and anchor bases (if any), Participating and Non-participating Residences, Occupied Community Buildings parcel boundary lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, Substation(s), operations and maintenance buildings, electrical cabling from the BESS to the Substation(s) and/or energy generation facility, ancillary equipment, third party transmission lines, the location of any wetlands, flood plain, drainage structures including surface ditches and subsurface drainage lines, underground mines, scenic and natural areas within one thousand five hundred (1,500) feet of the proposed BESS, the location of all known communications towers within two (2) miles of the proposed BESS and the layout of all structures within the geographical boundaries of any applicable setback.
5. A proposed Decommissioning Plan for the A BESS Project including cost estimations.
6. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance.
7. An Agricultural Impact Mitigation Agreement (AIMA) executed between the Applicant and the Illinois Department of Agriculture.
8. A topographic map that includes the BESS Project site and the surrounding area.
9. Any other information normally required by the Menard County Zoning Office as part of its permitting requirements for siting buildings or other structures.
10. Results and recommendations from the Illinois Department of Natural Resources obtained through the Ecological Compliance Assessment Tool or a comparable successor tool.
11. Results of the United States Fish and Wildlife Service's Information for Planning and Consulting environmental review or a comparable successor tool that is consistent with the United States Fish and Wildlife Service's Land-Based Solar Energy Guidelines.
12. Information demonstrating that the BESS Project will avoid protected lands.

13. All required utility permitting to be issued pursuant to the Menard County Highway Policy.
  14. Waivers from the setback requirements executed by the Occupied Community Building owners and/or the Non-Participating Property owners, bearing a file stamp from the Menard County Recorder's Office, confirming that the waiver was recorded against the title to the affected real property.
  15. Any other information requested by the Menard County Zoning Office or the Menard County Board of Commissioners, or its consultants, that is necessary to evaluate the siting application and operation of the BESS Project and to demonstrate that the BESS Project meets each of the regulations in this Ordinance including the Special Use Permit standards set forth below.
- F. Material changes to the application are not permitted once the notice of the public hearing has been published unless requested or permitted by the Menard County Zoning Office and the Menard County Board of Commissioners.
- G. The Applicant shall submit Twelve (12) paper copies of the Special Use Permit application to the Menard County and at least one (1) copy in electronic format.

NOTE: The Special Use Application is not considered complete until all requirements and documentation have been received by the Menard County Zoning Office. Once the documentation is received, the appropriate fees will be collected and the process of scheduling a public meeting with Menard County Board of Commissioners will begin.

## **6.01 DESIGN AND INSTALLATION.**

### **A. Design Safety Certification**

1. BESSs shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI"). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories ("UL") or an equivalent third party. All batteries, cells, panels, racking systems, containers and all anchoring systems shall be new equipment commercially available; no used or experimental equipment shall be used without the approval of a variance by the Menard County Board of Commissioners.
2. BESS(s) shall conform to applicable industry standards, including:

- National Electrical Safety Code (NESC)
- National Electric Code (NEC)
- National Fire Protection Agency (NFPA)
- Occupational Safety and Health Administration (OSHA)
- American Society of Testing and Materials (ASTM)
- Institute of Electrical and Electronic Engineers (IEEE)
- International Electrotechnical Commission (IEC)
- American Society of Civil Engineers (ASCE)
- American Concrete Institute (“ACI”)
- United States Environmental Protection Agency (EPA)
- National Electrical Testing Association (NETA)
- Underwriter’s Laboratories (UL)
- American National Standards Institute ("ANSI")

3. Following the granting of siting approval under this Ordinance, a structural engineer, licensed in the State of Illinois, shall certify, as part of the BESS Building Permit application process, that the design of the Battery Energy Storage Facility is within accepted professional standards given local soil, subsurface and climate conditions.

#### B. Electrical Components

All electrical components of the BESS shall conform to applicable local, state and national codes as well as relevant national and international standards (e.g., **ANSI** and International Electrical Commission).

#### C. Height

No component of a battery, cell, racking system, container or Dedicated-Use Building may exceed Twelve (12) feet in height above ground level.

#### D. Aesthetics and Lighting

The following items are minimum standards to mitigate visual impact:

1. Vegetative Screening: A vegetative screen shall be provided for any part of the Battery Energy Storage Facility. The landscaping screen shall be located between the required fencing and the property line of the participating parcel upon which the facility sits. The vegetative screen tier shall be planted fifteen (15) feet from the fence. The vegetative screening shall include at a minimum Arborvitae giant

variety selected for appropriate hardiness zone and be at a minimum of six (6) foot height planted on twelve (12) foot centers.

NOTE: The landowner and/or Applicant may request alternative tree species of conifer/pine/spruce for 1<sup>st</sup> tier and use another native hardwood (oak/hackberry/black walnut) for the second and third tier. No alternative tree may be planted without first obtaining written consent from the Menard County Board of Commissioners.

Vegetation shall be cleared of all combustible vegetation regularly, so as they do not form a means of readily transmitting fire. Noxious weeds shall be controlled in accordance with all state and local laws, regulations, and ordinances.

2. Lighting: If lighting is provided at the Battery Energy Storage Facility, all such lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel.
3. Intra-project Power and Communication Lines: All power lines used to collect power from individual BESSs and all communication lines shall be buried underground at a depth in accordance with the Agricultural Impact Mitigation Agreement until same reach the property line or a substation adjacent to the property line.
4. The Battery Energy Storage Facility shall at all times comply with and adhere to the recommendations provided by the Illinois State Historic Preservation Office. If at any time throughout the life of the Battery Energy Storage facility project, the project is found to not be in compliance with the IDNR recommendations or the Illinois State Historic Preservation Office, the applicant of facility owner will immediately shut down the Battery Energy Storage facility to ensure compliance with these recommendations until a solution to the violations is found and approved by the Menard County Zoning Office and the Menard County Board of Commissioners

E. Fencing

1. A fence of at least eight (8) feet and not more than twelve (12) feet in height shall enclose and secure the Battery Energy Storage Facility.
2. Fencing shall be constructed in compliance with the 2022 IDOT Standard Specifications for Road and Bridge Construction Section 664 and IDOT Highway Standard 664001-02.

3. All locked gates with access to a public road must be locked with a lock that utilizes a numeric code or be equipped with a Knox Box. If equipped with a lock utilizing a numeric code, that code must be on file with the Menard County 911 dispatch center, and updated annually.
4. The fencing plan shall be approved by the Menard County Zoning Office and the Menard County Board of Commissioners prior to construction.
5. A BESS that is enclosed within the project area of a Commercial Solar Energy Facility shall not require additional fencing.

F. Warnings

1. Signage shall be in compliance with ANSI Z35 (American National Standards Institute Specifications for Accident Prevention) and shall include the type of technology associated with the BESS, any special hazards associated, the type of suppression system installed for the BESS, and 24-Hour emergency contact information, including reach-back phone numbers. These sign(s) shall be placed at all gates of entrance to the facility, as well as on the entrance to any buildings that may house any components of the BESS.
2. As required by the NEC (National Electric Code), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface.
3. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations, and at all entrances to the A BESS facility.

G. Setback Requirements

The Battery Energy Storage Facility shall be sited as follows, with setback distances measured from the nearest edge of any component of the facility:

1. Occupied Community Buildings and Dwellings on Nonparticipating Properties: five hundred (500) feet from the nearest edge of any component of the BESS, to the nearest point on the outside wall of the structure.

2. Nonparticipating Residences: five hundred (500) feet from the nearest edge of any component of the BESS, to the nearest point on the outside wall of the structure.
3. Boundary Lines of Participating Property: None.
4. Boundary Lines of Nonparticipating Property: two-hundred (200) feet from the nearest edge of any component of the BESS, to the nearest point on the property line of the nonparticipating property.
5. Public Road Rights-of-Way: two-hundred (200) feet from the nearest edge of any component of the BESS, to the nearest edge of the public road right-of-way.
6. The setback requirements for Non-Participating Properties may be waived by the written consent of the owner(s) of each affected Non-Participating Property. The Applicant does not need to obtain a variance from the Menard County Zoning Board of Appeals up on waiver by the property owner of any of the above setback requirements. Any waiver of the above setback requirements shall run with the land and shall be recorded at the expense of the Applicant, with Land Records, in the Menard County Recorder' s Office.

#### H. Compliance with Additional Regulations

1. Menard County municipalities may solely require pre-annexation/annexation agreements and shall regulate BESS(s) within the 1.5-mile planning jurisdiction in accordance with 65 ILCS 5/11-13-26.
2. Municipal BESS: BESS(s) that are proposed to be located on lands within the 1.5-mile radius of an incorporated municipality's zoning jurisdiction shall seek zoning and building approval from said municipality.
3. Prior to the start of any construction or ground work the facility owner must either:
  - a. Present documentation that the proposed site is the subject of an approved pre-annexation agreement, and facilitate the creation of an Intergovernmental Agreement between the municipality and the County identifying that the municipality will be taking full jurisdiction over the project site and affected properties for the life of the project; or

- b. Present documentation that the proposed site has been the subject of an annexation into the municipality.
- 4. Nothing in this Ordinance is intended to preempt other applicable state and federal laws and regulations.

I. Use of Public Roads

- 1. An Applicant proposing to use any county, municipality, township or village road(s) for the purpose of transporting BESS(s) parts, components or related Substation parts, infrastructure and/or equipment for construction, operation or maintenance of the BESS(s) or Substation(s) shall follow the Menard County Road Use Agreement executed with the Menard County Engineer and applicable Road District Commissioner. The Applicant shall notify the Menard County Engineer of need to use roads and associated infrastructure when performing replacement of infrastructure and shall:
  - a. Identify all such public roads; and
  - b. Obtain applicable weight and size permits from relevant government agencies prior to construction.
- 2. To the extent an Applicant must obtain a weight or size permit from Menard County, or from any municipality, township or village located within Menard County, the Applicant shall:
  - a. Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage and the need for pre-construction modifications and improvements on existing roadways; and
  - b. Any proposed public roads that will be used for construction purposes shall be identified and approved in writing by the respective Road District Commissioner and the County Engineer prior to the granting of the Special Use Permit. Traffic for construction purposes shall be limited to these roads. All overweight and/or oversized loads to be transported on public roads may require a permit from the respective highway authority. Any road damage caused by the transport of the facility's equipment, installation, maintenance or removal must be completely repaired to the reasonable satisfaction of the Road District Commissioner and the County Engineer. The Road District Commissioner

and County Engineer may choose to require either remediation of road repair upon completion of the A BESS Project or are authorized to collect fees for overweight and/or oversized load permits. Further, financial assurance in an amount to be fixed by the Road District Commissioner and/or the County Engineer to ensure the Road District or the County that future repairs are completed to their reasonable satisfaction shall be provided. Applicant shall submit a draft form of said financial assurance with application for Special Use Permit with the Menard County Zoning Office.

c. Enter into a road use agreement with the Menard County Highway Department and each affected Road District that includes, at a minimum, the following provisions:

- i. Project layout map;
- ii. Transportation impact analysis;
- iii. Pre-construction plans;
- iv. Project traffic map;
- v. Maximum hauling weight loads per roadway;
- vi. Project scope of repairs;
- vii. Post-construction repairs;
- viii. Insurance;
- ix. Financial Security in forms and amounts acceptable to Menard County Highway Department and Menard County Board of Commissioners;

3. The road use agreement shall require the Applicant to be responsible for the reasonable cost of improving roads used to construct A BESS and the reasonable cost of repairing roads used by the facility owner during construction of the A BESS so that those roads are in a condition that is safe for the driving public after the completion of the BESS construction. Roadways improved in preparation for and during the construction of the BESS shall be repaired and restored to the improved condition at the reasonable cost of the developer if the roadways have degraded or were damaged as a result of construction-related activities.

a. Any road not shown as being initially utilized for hauling and/or construction traffic, but is noted to have hauling and/or construction traffic on it during construction for a total of two (2) offenses, will then be

included into the schedule of initially noted haul routes scheduled for repair and maintenance.

- b. All repairs and improvements to Menard County and Road District public roads and roadway appurtenances shall be subject to the prior approval of the Menard County Board of Commissioners of Commissioners before being made and shall also be subject to inspection and acceptance by the Menard County Engineer and Road District Commissioner after such repairs and improvements are completed. The Menard County and Road District's Road Use Agreement, and any further agreements contemplated therein, regarding the maintenance and repair of Menard County and Road District public roads and highways, must be approved by the Menard County Board of Commissioners of Commissioners and respective Road Commissioner prior to the Board's approval of any BESS Building Permit applications related to the construction of the proposed BESS Project.
- 4. An initial engineering and legal deposit fee of no less than One Hundred Thousand Dollars (\$100,000) shall be deposited into the County Treasury ("Engineering Fund") to cover all engineering, consulting and legal fees incurred by Menard County for the duration of the project. The amount may be adjusted the discretion of the Menard County Engineer based on the size of the proposed project. Additional funds shall be required as deemed necessary by the Menard County Engineer. Monies remaining in the Fund at the completion of the project will be refunded back to the Applicant.

J. Site Assessment

To ensure that the subsurface conditions of the site will provide proper support for the BESS and soil restoration, the Applicant, at its expense, shall provide soil and geotechnical boring reports to the County Engineer as part of its BESS Special Use Permit application. The Applicant shall follow the guidelines for Conservation Practices Standards and Natural Resource Inventory Report submitted by the Menard County Soil and Water Conservation District (or equivalent regulatory agency). The Applicant shall submit grading plans for the proposed Substations and any related infrastructure for review and comment by the Menard County Soil and Water Conservation District. The grading plans shall be a public record and shall be submitted as part of the Special Use Permit application

for the issuance of any BESS permitting for the construction of said systems.

K. Noise Levels

Noise levels from each BESS or BESS Project shall be in compliance with applicable Illinois Pollution Control Board (IPCB) regulations (Illinois Pollution Control Board 35 Ill. Adm. Code Parts 900, 901, and 910). The Applicant shall submit manufacturer's project sound power level characteristics and other relevant data regarding project noise characteristics necessary for a competent noise analysis. The Applicant, using a qualified professional, shall demonstrate compliance with the applicable noise requirements in its Special Use Permit application. The Applicant, using a qualified professional, shall demonstrate compliance with the applicable noise requirements cited by the Illinois Pollution Control Board regulations of each BESS and the BESS project upon construction completion. Menard County may hire a qualified noise acoustician every 24 months, or more frequently if noise complaints are received, to conduct testing for a thirty-day period at the ten most at risk residential property lines and ten most at risk primary structures of any agricultural property to ensure ongoing compliance with the IPCB noise regulations. The cost to conduct such testing shall be borne by the facility owner. If the facility owner does not pay within thirty (30) days of being provided an invoice for these costs, its special use permit shall be immediately revoked. If at any time throughout the life of the Battery Energy Storage facility project, the noise levels are found to be not in compliance with this section, the applicant or facility owner will immediately shut off the Battery Energy Storage facility until the Menard County Board of Commissioners and Menard County Zoning Office approves a solution.

L. Agricultural Impact Mitigation

Pursuant to 505 ILCS 147/15(a), the Applicant, at its expense, shall enter into an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture prior to any public hearing required before a siting decision on the BESS Project application. All impacted agricultural land, whether impacted during construction, operation, or decommissioning activities, must, at a minimum, be remediated by the Applicant pursuant to the terms of the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture. The Applicant shall submit the executed Agricultural Impact Mitigation Agreement to the Menard County Board of Commissioners of Commissioners as part of the Special Use Permit application.

M. Avian and Wildlife Impact Study

The Applicant, at its expense, shall have a third party, qualified professional (after submission and approval of resume and relevant work experience) conducts an avian and wildlife impact study and submit said study to the County as part of the Special Use Permit application. Each BESS or BESS Project shall be located, designed, constructed, and operated to avoid and if necessary, mitigate, the impacts to wildlife. The Applicant will comply with all applicable avian and wildlife protection rules and regulations including, but not limited to:

1. Endangered Species Act (protects federally listed threatened and endangered species) (16 U.S.C. §§1531 et seq.)
2. Illinois Endangered Species Protection Act (“IESPA”) (520 ILCS 10)
3. Migratory Bird Treaty Act (“MBTA”) (16 U.S.C. §§ 703-712), and
4. Bald and Golden Eagle Protection Act (“BGEPA”) (16 U.S.C. 668-668d and 50 Code of Federal Regulation [CFR] 22.26)

N. Illinois Environmental Protection Agency Impact Study

The Applicant, at its expense, Illinois Environmental Protection Agency conduct water impact studies and submit said studies to the County as part of the Special Use Permit application. Each BESS or BESS Project shall be located, designed, constructed, and operated to avoid, and if necessary, mitigate the impacts to water under Section 401 of the Clean Water Act and Section 402 - National Pollutant Discharge Elimination (NPDES) Permit of Construction Site Activities.

O. Coal Mine – Mine Subsidence Study

The Applicant, at its expense, shall have a third party, a qualified professional engineer licensed in the State of Illinois (after submission of resume and relevant work experience) conduct a Coal Mine – Mine Subsidence impact study and submit said study to the Menard County Board of Commissioners of Commissioners as part of the Special Use Permit application. Each BESS or BESS Project shall be located, designed, constructed, and operated to avoid siting over active or inactive mine areas.

P. Historical Impact Study

The Applicant, at its expense, shall have a third party, qualified professional (after submission of resume and relevant work experience) conducts an historical impact study and submit said study to the Menard

County Board of Commissioners of Commissioners as part of the Special Use Permit application. Each A BESS or A BESS Project shall be located, designed, constructed, and operated to avoid and, if necessary, mitigate the impacts to rich historical history of Menard County.

Q. As-Built Map and Plans

Within sixty (60) calendar days of completion of construction of the A BESS Project, the Applicant or Operator shall deliver 2 (two) sets of "as-built" maps including all BESS projects, equipment, driveways, substations, replaced drainage structures and all transmission (above and below ground) in the site plan and engineering plans for the BESS Project that have been signed and stamped by a Professional Engineer and a licensed surveyor in the State of Illinois, with 1 (one) set being in an electronic format.

R. Engineer's Certificate

The BESS Project engineer's certificate shall be completed by a Structural Engineer or Professional Engineer licensed in the State of Illinois, and shall certify that the specific soils and subsurface conditions at the site can support the apparatus given local soil, subsurface and climate conditions. The Battery Energy Storage Facility engineer's certificate shall be a public record and shall be submitted as part of the Special Use Permit application.

S. Conformance with Approved Application and Plans

1. The Applicant shall construct and operate the BESS Project in complete conformance with the construction plans contained in a Menard County approved Special Use Permit application(s), conditions placed upon the operation of the Facility, this ordinance and all applicable state, federal and local laws and regulations unless otherwise submitted and approved by the Menard County Board of Commissioners.
2. The Applicant shall be bound by all proposals and representations made under oath at the public hearing before the Menard County Board of Commissioners of Commissioners, which shall be considered supplementary conditions of the Special Use Petition granted by the Menard County Board of Commissioners of Commissioners, even if not directly specified herein.

T. Additional Terms and Conditions

1. All technical submissions as defined in the Professional Engineering Practice Act of 1989 (225 ILCS 325/4(w)) and contained in the Special Use Permit Application shall be prepared and signed by an Illinois Professional Engineer (or Illinois Structural Engineer) for the relevant discipline.
2. The Menard County Board of Commissioners may retain a qualified independent code inspector or Professional Engineer both to make appropriate inspections of the BESS Project during and after construction and to consult with the Menard County Board of Commissioners to confirm that the construction, substantial repair, replacement, repowering and/or decommissioning of the BESS Project is performed in compliance with applicable electrical and building codes. The cost and fees incurred by Menard County in retaining said inspector or engineer shall be reimbursed by the Applicant or owner of the BESS Project within thirty (30) days of the presentation of invoice. Failure to pay within the time period prescribed will result in the automatic revocation of its special use permit, if one has been granted.
3. The Applicant shall provide that locked metal gates or a locked chain are installed at the access road entrances of all the BESS facilities.
4. The Special Use Permit granted to the Applicant shall bind and inure to the benefit of the Applicant, its successors-in-interest, and assigns. If any provision in this Ordinance, or conditions placed upon the operation of the A BESS Facility is held invalid, such invalidity shall not affect any other provision of this Ordinance that can be given effect without the invalid provision and, to this end, the provisions in this Ordinance are severable.
5. The Applicant shall provide an executed road use agreement to the Menard County Board of Commissioners of Commissioners between the Applicant and the appropriate governing road and highway jurisdictions or the Illinois Department of Transportation to the Menard County and Road District showing approved entrances, construction access, and haul routes prior to the issuance of any BESS Building Permit or prior to construction of the BESS Project.
6. Treatment of Existing Drainage Tile shall be the responsibility of the BESS Owner to notify the Menard County Engineer if the construction of any part of the project encounters underground field

drainage tiles. A plan sufficient to provide remediation shall be submitted, reviewed, and approved by the Menard County Engineer. All existing drainage tiles that will be crossed by private access roads shall be removed and replaced with a load resistant tile as specified by the Menard County Engineer. This shall be done before the private access roads are used for construction purposes. The load resistant tile shall extend a minimum of 30 feet across any private access roads and shall be of the same diameter of the existing tile. To ensure that all drainage tiles have been located, reasonable measures should be made to locate all existing tile in the vicinity of the private access roads by exploratory trench or other appropriate methods. All drainage tile that are encountered during construction shall be noted on the site plan.

7. The Applicant shall provide from U.S. Environmental Protection Agency (EPA) a completed Spill Prevention Control and Countermeasures Plan (SPCC Plan). The Applicant shall submit the executed SPCC Plan to the Menard County Board of Commissioners of Commissioners as part of the Special Use Permit application. The SPCC Plan shall be implemented in coordination with and at the time of Issue for Construction design documents.
8. The Applicant shall notify the County of any material changes to the information provided in all subsections of this Ordinance that occur prior to the issuance of a building permit.
  - a. The Applicant shall not commence construction activity associated with the BESS Project before 6:00 A.M. nor continue past 9:00 P.M. on any day of the week within one-quarter ( $\frac{1}{4}$ ) of a mile of any non-participating landowner unless a waiver is obtained from such landowner.
  - b. Prior to issuance of a building permit, the Applicant shall provide to the Menard County Zoning Office documentation of the specifications for the BESS equipment chosen for the Project.
9. The Applicant shall commence construction of the BESS Project within thirty-six (36) months of the date of the Special Use Permit approval by the Menard County Board of Commissioners of Commissioners. After construction is complete, the Applicant shall provide certified “as-built” drawings to the Menard County Zoning Office, the Menard County Assessor and the Menard County Board of Commissioners showing the locations of the BESS Project and a legal description of the land utilized for the improvements. The Special Use Permit shall thereafter automatically be modified to

limit the legal description of the area of the Special Use Permit to the land utilized for the improvements.

## **7.01 OPERATION.**

### **A. Maintenance**

1. Annual Report. The Applicant (BESS Permittee) or facility owner shall submit to the Menard County Zoning Office on the first Monday of May of each year following A BESS project approval by the Menard County Board of Commissioners, a report regarding A BESS maintenance and operation. This report shall contain the following information:
  - (i) a general description of any physical repairs, replacements, or modification(s) to the BESS and/or its infrastructure;
  - (ii) complaints pertaining to setbacks, noise, appearance, safety, lighting, and use of any public roads received by the Applicant concerning the BESS and the resolution of such complaints;
  - (iii) calls for emergency services, including the nature of the emergency and how it was resolved;
  - (iv) status of liability insurance;
  - (v) any other information that the Menard County Zoning Office or the Menard County Board of Commissioners might reasonably request; and
  - (vi) a general summary of service calls to the BESS.

NOTE: Menard County may require the Annual Report to be presented at the Board of Commissioners' meeting by the Applicant or facility owner upon written notice delivered at least 60 days prior to the presentation.

2. Failure to provide the annual report shall be considered a material violation of this Ordinance and subject to Article 10.01 (Administration and Enforcement).
3. Within ninety (90) days of the receipt of this annual report, the Menard County Zoning Office shall review it; conduct an on-site field review of the BESS project; and within one hundred twenty (120) days of the receipt of the report provide a summary of the report and its on-site field review to the Menard County Board of Commissioners of Commissioners.

4. The Menard County Zoning Office shall charge a fee for the annual review in the amount of no more than two hundred fifty dollars (\$250.00) per BESS project area facility. This fee shall be provided to the Menard County Zoning Office by the A BESS applicant, owner, and/or operator at the time of annual report submission. Failure to provide the annual report and required fee shall be considered a cessation of operations.
5. The applicant, owner, and/or operator of a BESS project shall allow the Menard County Zoning Office to have access to the BESS project site for the purposes described in Section 7.01(A)(2) above. Failure to provide access shall be deemed a material violation of the Special Use Permit.
6. Re-Certification. Any physical modification to the BESS that alters the mechanical load, mechanical load path or major electrical components shall require re-certification under Article 6.01 Design and Safety Certification section, paragraph 1, of this Ordinance. Like-kind replacements and modifications that are made in the ordinary course of operations, including expected repairs and warranty items, shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement or other modifications made in the ordinary course of operations), the Applicant shall confer with a relevant third-party certifying entity identified in Article 6.01 Design and Safety Certification section, paragraph 1, of this Ordinance to determine whether the physical modification requires re-certification.

B. Coordination with Emergency Responders:

1. The Applicant shall submit to the local emergency responders a copy of the Site Plan, Standard Operating Procedures (SOPs) and Standard Operating Guidelines (SOGs) and any amendments to such documents, for the BESS facility so that the local law enforcement, fire protection district and rescue units, emergency medical service providers, and emergency management service providers that have jurisdiction over each BESS project site may evaluate and coordinate their emergency response plans with the Applicant of the BESS Project.
2. The Applicant, at its expense, shall provide annual training for and the necessary equipment to the Operator and local emergency response authorities and their personnel so that they can properly respond to a potential emergency at the BESS Project. Special equipment to be provided includes, but is not limited to, key access (Knox) boxes, and permanently installed rescue equipment.

3. The Applicant and the Operator shall cooperate with all local emergency responders to develop an emergency response plan. The plan shall include, at a minimum, 24-hour contact information (names, titles, email addresses, cell phone numbers) for the Applicant and the Operator and at least three (3) designated BESS Project representatives (a primary representative with two (2) alternate representatives, each of whom are on-call 24 hours per day / 7 days per week 365 days per year). Any change in the designated BESS Project representative or his/her contact information shall be promptly communicated to the Menard County Board of Commissioners of Commissioners in writing. The content of the emergency response plan, including the 24-hour contact information, shall be reviewed and updated on an annual basis.
4. Nothing in this section shall alleviate the need to comply with all other applicable life, safety, fire / emergency laws and regulations.
5. Any emergency work or response required in direct response to the BESS project will be billed directly to the developer outside of the scope of the Special Use Permit pursuant to 70 ILCS 705/11 for local responders. For any specialized operation requiring municipal responders, response will be billed per the standard base rate of each agency. Additionally, the provisions of “The Hazardous Material Response Reimbursement Act” (430 ILCS 55) shall also apply.

C. Water, Sewer, Materials Handling, Storage and Disposal

1. All solid wastes related to the construction, operation, and maintenance of the BESS shall be removed from the site promptly and disposed of in accordance with all federal, state, and local laws.
2. All hazardous materials related to the construction, operation, and maintenance of the BESS shall be handled, stored, transported, and disposed of in accordance with all applicable local, state, and federal laws.
3. The BESS Project shall comply with existing septic and well regulations as required by the Menard County Public Health Department, The Sangamon Menard County Department of Public Health, and the State of Illinois Department of Public Health.

D. Drainage Systems

The Applicant or facility owner at its expense will repair, within 90 days after a complaint is filed, all waterways, drainage ditches, agricultural drainage systems, field tiles or any other private and public infrastructure improvements damaged during construction, maintenance, and operation phases of the BESS Project in accordance with the Agricultural Impact Mitigation Agreement and the IDOA Drain Tile Repair schedule figures 1-2. (See Appendix (3)). Additionally, the Applicant or facility owner shall provide a drainage impact assessment every 5 years including inspection or assessment of property drainage system. Failure to provide the assessment to the Menard County Zoning Office and Menard County Board of Commissioners shall be considered a material violation of this ordinance.

E. Complaint Resolution

The Applicant or facility owner shall, at its expense and in coordination with the County, develop a system for logging and investigating complaints related to the BESS Project. The Applicant shall resolve such non-emergency complaints on a case-by-case basis and shall provide written confirmation to the Menard County Zoning Office. All costs and fees incurred by the County in resolving or attempting to resolve complaints shall be reimbursed by the Applicant of the A BESS Project within thirty (30) days of the County providing proof of costs and fees. The Applicant shall also designate and maintain for the duration of the A BESS Project either a local telephone number or a toll-free telephone number as well as an email address as its public information inquiry / and complaint "hotline" which shall be answered by a customer service representative on a 24/7 basis. The Applicant shall post the telephone number(s) and email address(es) for the customer service representative(s) in a prominent, easy to find location on their websites and at the A BESS Project site on signage.

**8.01 LIABILITY INSURANCE AND INDEMNIFICATION.**

Commencing with the issuance of a BESS Building Permit, the Applicant or facility owner shall maintain a current general comprehensive liability policy and automobile liability coverage covering bodily injury, death and illness, and property damage with limits of at least Five Million Dollars (\$5,000,000.00) per occurrence; and shall further maintain the above-stated lines of insurance from delivery of the "Notice to Proceed" by the Applicant for the BESS Project and throughout the duration of the life of the facility coverage amounts of at least Five Million Dollars (\$5,000,000.00) per occurrence and

Twenty Million Dollars (\$20,000,000.00) in the aggregate during the life of the BESS Project. The Applicant shall file the original certificate of insurance upon commencement of project construction prior to the issuance of a BESS Building Permit, corresponding policies, and endorsements to be provided within sixty (60) days of issuance as well as at each subsequent renewal at least annually thereafter. Additionally, the Applicant shall name Menard County and its agents as an additionally insured participant on all policies of insurance.

The Applicant (BESS Permittee) or facility owner shall defend, indemnify and hold harmless the Menard County and its officers, appointed and elected officials, employees, attorneys, engineers and agents (collectively and individually the "Indemnified Parties") from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney's fees relating to or arising out of the issuance of the Special Use Permit or the construction, operation, maintenance and removal of the BESS and affiliated equipment including, without limitation, liability for property damage or personal injury (including death or illness), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence) or any acts or omissions of the Applicant (BESS Permittee), the Owner or the Operator under this Ordinance or the Special Use Permit except to the extent any such claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities arise from the negligence or intentional acts of such Indemnified Parties. This general indemnification shall not be construed as limiting or qualifying Menard County's other indemnification rights available under the law.

#### **9.01 DECOMMISSIONING AND SITE RECLAMATION PLAN REQUIRED.**

The Applicant (or Owner, if different from Applicant) must submit a Decommissioning Plan with cost estimation to the Menard County as part of the siting application and provide testimony supporting the calculation of costs provided in said plan during the public hearing on the application. Prior to receiving any building permit for the A BESS facility, the Applicant or Owner shall provide a Decommissioning Agreement and post the required Financial Assurances for the benefit of Menard County with the Treasurer of Menard County. The Decommissioning Agreement and Financial Assurances shall comply with 55 ILCS 5/5-12020. Periodically, and as required by the Agricultural Impact Mitigation Agreement, the Owner must update the Decommissioning Plan, cost estimations and provide updated Financial Assurances to the benefit of Menard County. That plan shall include:

- A. A Memorandum of Understanding with property owners of each BESS facility that if decommissioning fees exceed what has been assured through the decommissioning financial plan, property owners shall be liable for remaining costs.

- B. Provisions for the removal of structures, debris, and cabling on the surface and at least five (5) feet below the surface, and the sequence in which removal is expected to occur.
- C. Provisions for the restoration of the soil and vegetation.
- D. An estimate of the decommissioning costs certified by a Professional Engineer in current dollars. The engineer providing this estimate shall be engaged under contract by the Menard County Engineer and all costs associated with this engagement shall be borne by the applicant.
- E. A financial plan approved by the Menard County Board of Commissioners of Commissioners to ensure funds will be available for decommissioning and land restoration. The applicant shall provide the Menard County Board of Commissioners with a new estimate of the cost of decommissioning the A BESS project every five (5) years under the same conditions as set forth in the Agricultural Impact Mitigation Agreement. Upon receipt of this new estimate, the Menard County Board of Commissioners may require, and the applicant, owner, and/or operator of the BESS project shall provide, a new financial plan for decommissioning acceptable to the Menard County Board of Commissioners. Failure to provide an acceptable financial plan shall be considered a cessation of operations.
- F. A provision that the terms of the decommissioning plan shall be binding upon the owner or operator and any of their successors, assigns, or heirs; and
- G. A provision that Menard County shall have access to the site and to the funds outlined above to effect or complete decommissioning one (1) year after cessation of operations.

#### **10.01 ADMINISTRATION AND ENFORCEMENT.**

- A. The Applicant's failure to materially comply with any of the provisions under the Special Use Permit, any conditions imposed on the project, and/ or failure to comply with any law or regulation, shall be a default and shall be grounds for revocation of the Special Use Permit by the Menard County Board of Commissioners within Forty-five (45) days.
- B. Prior to implementation of the applicable Menard County procedures for the resolution of default(s), the Menard County Board of must first provide written notice to the Applicant and Operator setting forth the alleged default(s), and provide an opportunity for the Applicant or the Operator to cure the default(s) within a thirty (30) calendar day period from the date of the notice. Should the Applicant commence the cure within that 30-day cure period and diligently pursues a cure, then the Applicant shall receive an additional sixty (60) days to continue to pursue the cure before the Menard

County pursues procedures for the resolution of default. If the default relates to a life safety issue or interference with local government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, the Applicant or the Operator shall take all necessary and available commercial measures to immediately cure the default. If the Applicant or Operator cannot cure the default(s) or resolve the alleged default(s) within the cure period, then applicable Menard County ordinance provisions addressing the resolution of such default(s) shall govern.

## **11.01 FEE SCHEDULE AND PERMITTING PROCESS.**

### **A. Application Fees**

1. Prior to processing any Application for a BESS Facility, the Applicant must submit a certified check to the Menard County Zoning Office for the Application Fee equal to five thousand dollars (\$5000) per megawatt MW of nameplate capacity, additionally, if the nameplate capacity is less than 1 MW, the permit fee shall be reduced pro rata., up to a maximum fee of one million dollars (\$1,000,000.00). These funds shall be placed in an FDIC insured account and will be used to cover the county's cost incurred in processing the Application.
2. Should the actual costs to Menard County exceed the submitted Application Fee, the Applicant shall be responsible for those additional costs and shall remit additional funds to the Menard County within 15 days of receipt of a request from the Menard County. No hearings on an Application shall be conducted nor final decisions rendered on an Application if there are Application fees due to Menard County.
3. Any unused amounts of the Application Fee shall be refunded to the Applicant within six months of the Menard County Board of Commissioners rendering a final decision on the matter, unless any pending litigation, disputes or negotiations involving Menard County exist regarding the BESS Facility, in which case any amounts owed to the Applicant shall be refunded within six months of the conclusion of the litigation, disputes, or negotiations. An Applicant may request any unused Application Fee be applied toward the Building Permit Fees for the Facility.

## 2. Building Permit Fees

Prior to the issuance of building permits, the Building Permit Applicant must submit a certified check to the Menard County Zoning Office for a Building Permit Fee equating to eight thousand dollars (\$8000) per megawatt MW of nameplate capacity additionally, if the nameplate capacity is less than 1 MW, the permit fee shall be reduced pro rata.

## 3. All Costs to be Paid by Applicant or Owner

In addition to all fees noted above, the Applicant or Owner shall pay all costs incurred by Menard County, including but not limited to those costs associated with all offices and departments, boards and commissions of Menard County as well as third-party costs incurred by the Menard County. This includes, but is not limited to, the direct or indirect costs associated with hearings, permitting, operations, inspections, decommissioning, litigation, disputes and/or negotiations.

## 4. Due to the complexity of the project and the information submitted, it shall be reviewed by a committee consisting of one or more representatives from:

- Menard County Zoning Office;
  - Menard County Planning Commission;
  - Menard County Engineer;
  - Menard County Road Commissioner affected;
  - Menard County Drainage District Commissioner affected;
  - Menard County Emergency Telephone System;
  - Menard County Coordinator;
  - Menard County State's Attorney;
  - Applicable Fire Protection District;
- a. Due to the complexity of the project and the information submitted for review, Menard County may charge the BESS project applicant, owner, and/or operator for the cost of any special analytic or other review needs deemed by the committee to be reasonably necessary and incidental to adequate and timely review.
  - b. If the committee determines that all requirements of the ordinance have been met, the Menard County Zoning Office shall issue a certificate of compliance. The building permit may be reviewed at the same time.

## **11.02 VARIATIONS**

The Menard County Zoning Office and the Menard County Board of Commissioners may permit variations to the regulations of this ordinance but shall do so only when the granting of such a variation would be in harmony with the ordinance's general purpose and intent and may vary them only in specific instances where there would be practical difficulties or hardships in the way of carrying out the strict letter of the regulations of this ordinance.

## **12.01 HEARING FACILITATOR**

The Menard County Board of Commissioners may engage the services of a hearing facilitator. The hearing facilitator shall be an independent contractor who shall conduct a hearing in accordance with all applicable rules of the board and the Menard County but has no adjudicatory responsibility other than ruling on requests for continuances, procedural matters, admissibility of evidence and the propriety of any arguments.

The hearing facilitator shall be an attorney licensed to practice in the State of Illinois. The Applicant shall reimburse Menard County for the fees and costs charged by the facilitator, within thirty (30) days of the county providing proof of fees and cost incurred.

## **13.01 HEARING FACTORS**

- A. The Menard County Board of Commissioners may approve a BESS Facility Special Use Permit application if it finds the evidence complies with state, federal and local law, and regulations, and with the standards of this zoning code including the factors listed below. The factors below are applied as a balancing test, not individual requirements to be met.
  - a. The establishment, maintenance or operation of the BESS Project will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
  - b. The BESS Project will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values of surrounding properties;
  - c. The establishment of the BESS Project will not impede the normal and orderly development and improvement of the surrounding properties;
  - d. Adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided;
  - e. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;

- f. The proposed BESS Project is not contrary to the objectives of the current comprehensive plan of the Menard County (if any); and
  - g. The BESS Project shall, in all other respects, conform to the applicable regulations of this Ordinance and the zoning district in which it is located (if a zoning ordinance is in effect), except as such regulations may, in each instance, be modified pursuant to the recommendations of and approved by the Menard County Board of Commissioners.
- B. Special Use Permit Conditions and Restrictions. The Menard County Board of Commissioners may stipulate conditions, guarantees and restrictions, upon the establishment, location, construction, maintenance, and operation of the BESS Project as are deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements of this Ordinance.
- C. Revocation.
  - a. In any case where a Special Use Permit has been approved for a BESS Project, the Applicant shall apply for a BESS Building Permit from the Menard County and all other permits required by other government or regulatory agencies to commence construction, and commence and actively pursue construction of the Project within thirty-six (36) months from the date of the granting of the Special Use Permit. If the Applicant fails to apply for a BESS Building Permit from Menard County and all other permits required by other government or regulatory agencies prior to construction, and/or fails to commence and actively pursue construction of the Project within the thirty-six (36) month period, then without further action by the Menard County Board of Commissioners the Special Use Permit authorizing the construction and operation of the BESS Project shall be automatically revoked and void. Upon written request supported by evidence that the Applicant has diligently pursued issuance of all necessary government and regulatory permits for the Project required to commence construction and that any delay in commencement of construction of the Project is due to conditions out of his/her/its control, the Menard County Board of Commissioners, in its sole discretion, may extend the above thirty-six (36) month period by passage of an ordinance that amends the Special Use Permit.
  - b. The Special Use Permit shall be subject to revocation if the Applicant dissolves or ceases to do business, abandons the

BESS Project, or the BESS ceases to operate for more than twelve (12) consecutive months for any reason.

- c. Subject to the provisions of Article 10.01(A), a Special Use Permit may be revoked by the Menard County Board of Commissioners if the BESS Project is not constructed, installed, and/or operated in substantial conformance with the Menard County-approved Project plans, the regulations of this Ordinance and the stipulated Special Use Permit conditions and restrictions.
- D. **Transferability: Owner or BESS Permittee.** The Applicant shall provide written notification to the Menard County Board of Commissioners at least Ninety (90) days prior to any change in ownership of a BESS Project of any such change in ownership. The phrase "change in ownership of a BESS Project" includes any kind of assignment, sale, lease, transfer, or other conveyance of ownership or operating control of the Applicant, the BESS Project, or any portion thereof. The Applicant or successors-in-interest or assignees of the Special Use Permit, as applicable, shall remain liable for compliance with all conditions, restrictions, and obligations contained in the Special Use Permit, the provisions of this Ordinance, and applicable Menard County, state, and federal laws.
- E. **Modification.** Any modification of a BESS Project that alters or changes the essential character or operation of the BESS Project in a way not intended at the time the Special Use Permit was granted, or as subsequently amended, shall require a new Special Use Permit. The Applicant or authorized representative, shall apply for an amended Special Use Permit prior to any modification of the BESS Project.

**Permit Effective Date: The Special Use Permit shall become effective upon approval of the Ordinance by the Menard County Board of Commissioners.**

#### **14.01 INTERPRETATION**

The provisions of these regulations shall be held to the minimum requirements adopted for the promotion and preservation of public health, safety, and general welfare of Menard County. These regulations are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or laws of Menard County nor conflict with any statutes of the State of Illinois.

#### **15.01 SEVERABILITY**

If any section, paragraph, clause, phrase, or part of this Ordinance is for any reason held invalid by any court or competent jurisdiction, such decision shall not affect the validity of the remaining provisions of these regulations.

#### **16.01 EFFECTIVE DATE**

This Ordinance shall be in full force and effect from and after its passage, publication, and approval as required by law.

## **APPENDIX**

### Agricultural Impact Mitigation Agreement – Construction of a Battery Energy Storage Facility

# STANDARD AGRICULTURAL IMPACT MITIGATION AGREEMENT

between

\_\_\_\_\_

and the  
**ILLINOIS DEPARTMENT OF AGRICULTURE**

Pertaining to the Construction of a Battery Energy Storage  
Facility in

\_\_\_\_\_ **County, Illinois**

Pursuant to the Renewable Energy Facilities Agricultural Impact Mitigation Act (505 ILCS 147), the following standards and policies are required by the Illinois Department of Agriculture (IDOA) to help preserve the integrity of any Agricultural Land that is impacted by the Construction and Deconstruction of a Battery Energy Storage Facility. They were developed with the cooperation of agricultural agencies, organizations, Landowners, Tenants, drainage contractors, and solar energy companies to comprise this Agricultural Impact Mitigation Agreement (AIMA).

\_\_\_\_\_, hereafter referred to as Battery Energy Storage Facility Owner, or simply as Facility Owner, plans to develop and/or operate a \_\_\_\_\_ Battery Energy Storage Facility in \_\_\_\_\_ County [GPS Coordinates: \_\_\_\_\_], which will consist of up to \_\_\_\_\_ acres that will be covered by solar facility related components, such as solar panel arrays, racking systems, access roads, an onsite underground collection system, inverters and transformers and any affiliated electric transmission lines. This AIMA is made and entered between the Facility Owner and the IDOA.

If Construction does not commence within four years after this AIMA has been fully executed, this AIMA shall be revised, with the Facility Owner's input, to reflect the IDOA's most current Solar Farm Construction and Deconstruction Standards and Policies. This AIMA, and any updated AIMA, shall be filed with the County Board by the Facility Owner prior to the commencement of Construction.

The below prescribed standards and policies are applicable to Construction and Deconstruction activities occurring partially or wholly on privately owned agricultural land.

## Conditions of the AIMA

The mitigative actions specified in this AIMA shall be subject to the following conditions:

- A. All Construction or Deconstruction activities may be subject to County or other local requirements. However, the specifications outlined in this AIMA shall be the minimum standards applied to all Construction or Deconstruction activities. IDOA may utilize any legal means to enforce this AIMA.
- B. Except for Section 17. B. through F., all actions set forth in this AIMA are subject to modification through negotiation by Landowners and the Facility Owner, provided such changes are negotiated

in advance of the respective Construction or Deconstruction activities.

- C. The Facility Owner may negotiate with Landowners to carry out the actions that Landowners wish to perform themselves. In such instances, the Facility Owner shall offer Landowners the area commercial rate for their machinery and labor costs.
- D. All provisions of this AIMA shall apply to associated future Construction, maintenance, repairs, and Deconstruction of the Facility referenced by this AIMA.
- E. The Facility Owner shall keep the Landowners and Tenants informed of the Facility's Construction and Deconstruction status, and other factors that may have an impact upon their farming operations.
- F. The Facility Owner shall include a statement of its adherence to this AIMA in any environmental assessment and/or environmental impact statement.
- G. Execution of this AIMA shall be made a condition of any Conditional/Special Use Permit. Not less than 30 days prior to the commencement of Construction, a copy of this AIMA shall be provided by the Facility Owner to each Landowner that is party to an Underlying Agreement. In addition, this AIMA shall be incorporated into each Underlying Agreement.
- H. The Facility Owner shall implement all actions to the extent that they do not conflict with the requirements of any applicable federal, state and local rules and regulations and other permits and approvals that are obtained by the Facility Owner for the Facility.
- I. No later than 45 days prior to the Construction and/or Deconstruction of a Facility, the Facility Owner shall provide the Landowner(s) with a telephone number the Landowner can call to alert the Facility Owner should the Landowner(s) have questions or concerns with the work which is being done or has been carried out on his/her property.
- J. If there is a change in ownership of the Facility, the Facility Owner assuming ownership of the Facility shall provide written notice within 90 days of ownership transfer, to the Department, the County, and to Landowners of such change. The Financial Assurance requirements and the other terms of this AIMA shall apply to the new Facility Owner.
- K. The Facility Owner shall comply with all local, state and federal laws and regulations, specifically including the worker protection standards to protect workers from pesticide exposure.
- L. Within 30 days of execution of this AIMA, the Facility Owner shall use Best Efforts to provide the IDOA with a list of all Landowners that are party to an Underlying Agreement and known Tenants of said Landowner who may be affected by the Facility. As the list of Landowners and Tenants is updated, the Facility Owner shall notify the IDOA of any additions or deletions.
- M. If any provision of this AIMA is held to be unenforceable, no other provision shall be affected by that holding, and the remainder of the AIMA shall be interpreted as if it did not contain the unenforceable provision.

## Definitions

### Abandonment

When Deconstruction has not been completed within 12 months after the Battery Energy Storage Facility reaches the end of its useful life. For purposes of this definition, a Battery Energy Storage Facility shall be presumed to have reached the end of its useful life

|                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|---------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                               | if the Battery Energy Storage Facility Owner fails, for a period of 6 consecutive months, to pay the Landowner amounts owed in accordance with an Underlying Agreement.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Aboveground Cable                                             | Electrical power lines installed above ground surface to be utilized for conveyance of power from the solar panels to the solar facility inverter and/or point of interconnection to utility grid or customer electric meter.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Agricultural Impact Mitigation Agreement (AIMA)               | The Agreement between the Facility Owner and the Illinois Department of Agriculture (IDOA) described herein.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Agricultural Land                                             | Land used for cropland, hayland, pastureland, managed woodlands, truck gardens, farmsteads, commercial ag-related facilities, feedlots, livestock confinement systems, land on which farm buildings are located, and land in government conservation programs used for purposes as set forth above.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Best Efforts                                                  | Diligent, good faith, and commercially reasonable efforts to achieve a given objective or obligation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Commercial Operation Date                                     | The calendar date of which the Facility Owner notifies the Landowner, County, and IDOA in writing that commercial operation of the facility has commenced. If the Facility Owner fails to provide such notifications, the Commercial Operation Date shall be the execution date of this AIMA plus 6 months.                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Commercial Solar Energy Facility (Facility)                   | A solar energy conversion facility equal to or greater than 500 kilowatts in total nameplate capacity, including a solar energy conversion facility seeking an extension of a permit to construct granted by a county or municipality before June 29, 2018. "Battery Energy Storage facility" does not include a solar energy conversion facility: (1) for which a permit to construct has been issued before June 29, 2018; (2) that is located on land owned by the Battery Energy Storage facility owner; (3) that was constructed before June 29, 2018; or (4) that is located on the customer side of the customer's electric meter and is primarily used to offset that customer's electricity load and is limited in nameplate capacity to less than or equal to 2,000 kilowatts. |
| Battery Energy Storage Facility Owner deemed (Facility Owner) | A person or entity that owns a Battery Energy Storage facility. A Battery Energy Storage Facility Owner is not nor shall it be to be a public utility as defined in the Public Utilities Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| County                                                        | The County or Counties where the Battery Energy Storage Facility is located.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Construction                                                  | The installation, preparation for installation and/or repair of a Facility.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Cropland                                                      | Land used for growing row crops, small grains or hay; includes land which was formerly used as cropland, but is currently enrolled in a government conservation program; also includes pastureland that                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

|                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|---------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                             | is classified as Prime Farmland.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Deconstruction                              | The removal of a Facility from the property of a Landowner and the restoration of that property as provided in the AIMA.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Deconstruction Plan                         | <p>A plan prepared by a Professional Engineer, at the Facility's expense, that includes:</p> <ol style="list-style-type: none"> <li>(1) the estimated Deconstruction cost, in current dollars at the time of filing, for the Facility, considering among other things: <ol style="list-style-type: none"> <li>i. the number of solar panels, racking, and related facilities involved;</li> <li>ii. the original Construction costs of the Facility;</li> <li>iii. the size and capacity, in megawatts of the Facility;</li> <li>iv. the salvage value of the facilities (if all interests in salvage value are subordinate to that of the Financial Assuranceholder if abandonment occurs);</li> <li>v. the Construction method and techniques for the Facility and for other similar facilities; and</li> </ol> </li> <li>(2) a comprehensive detailed description of how the Facility Owner plans to pay for the Deconstruction of the Facility.</li> </ol> |
| Department                                  | The Illinois Department of Agriculture (IDOA).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Financial Assurance                         | A reclamation or surety bond or other commercially available financial assurance that is acceptable to the County, with the County or Landowner as beneficiary.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Landowner                                   | Any person with an ownership interest in property that is used for agricultural purposes and that is party to an Underlying Agreement.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Prime Farmland                              | Agricultural Land comprised of soils that are defined by the USDA Natural Resources Conservation Service (NRCS) as "Prime Farmland" (generally considered to be the most productive soils with the least input of nutrients and management).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Professional Engineer                       | An engineer licensed to practice engineering in the State of Illinois.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Soil and Water Conservation District (SWCD) | A unit of local government that provides technical and financial assistance to eligible Landowners for the conservation of soil and water resources.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Tenant                                      | Any person, apart from the Facility Owner, lawfully residing or leasing/renting land that is subject to an Underlying Agreement.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Topsoil                                     | The uppermost layer of the soil that has the darkest color or the highest content of organic matter; more specifically, it is defined as the "A" horizon.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Underlying Agreement                        | The written agreement between the Facility Owner and the Landowner(s) including, but not limited to, an easement, option, lease, or license under the terms of which another person has                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

constructed, constructs, or intends to construct a Facility on the property of the Landowner.

|                                                    |                                                                                                                                                                                    |
|----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Underground Cable                                  | Electrical power lines installed below the ground surface to be utilized for conveyance of power within a Facility or from a Battery Energy Storage Facility to the electric grid. |
| USDA Natural Resources Conservation Service (NRCS) | An agency of the United States Department of Agriculture that provides America's farmers with financial and technical assistance to aid with natural resources conservation.       |

## Construction and Deconstruction Standards and Policies

### **1. Support Structures**

- A. Only single pole support structures shall be used for the Construction and operation of the Facility on Agricultural Land. Other types of support structures, such as lattice towers or H-frames, may be used on nonagricultural land.
- B. Where a Facility's Aboveground Cable will be adjacent and parallel to highway and/or railroad right-of-way, but on privately owned property, the support structures shall be placed as close as reasonably practicable and allowable by the applicable County Engineer or other applicable authorities to the highway or railroad right-of-way. The only exceptions may be at jogs or weaves on the highway alignment or along highways or railroads where transmission and distribution lines are already present.
- C. When it is not possible to locate Aboveground Cable next to highway or railroad right-of-way, Best Efforts shall be expended to place all support poles in such a manner to minimize their placement on Cropland (i.e., longer than normal above ground spans shall be utilized when traversing Cropland).

### **2. Aboveground Facilities**

Locations for facilities shall be selected in a manner that is as unobtrusive as reasonably possible to ongoing agricultural activities occurring on the land that contains or is adjacent to the Facility.

### **3. Guy Wires and Anchors**

Best Efforts shall be made to place guy wires and their anchors, if used, out of Cropland, pastureland and hayland, placing them instead along existing utilization lines and on land other than Cropland. Where this is not feasible, Best Efforts shall be made to minimize guy wire impact on Cropland. All guy wires shall be shielded with highly visible guards.

### **4. Underground Cabling Depth**

- A. Underground electrical cables located outside the perimeter of the (fence) of the solar panels shall be buried with:
  1. a minimum of 5 feet of top cover where they cross Cropland.
  2. a minimum of 5 feet of top cover where they cross pastureland or other non-

Cropland classified as Prime Farmland.

3. a minimum of 3 feet of top cover where they cross pastureland and other Agricultural Land not classified as Prime Farmland.
  4. a minimum of 3 feet of top cover where they cross wooded/brushy land.
- B. Provided that the Facility Owner removes the cables during Deconstruction, underground electric cables may be installed to a minimum depth of 18 inches:
1. Within the fenced perimeter of the Facility; or
  2. When buried under an access road associated with the Facility provided that the location and depth of cabling is clearly marked at the surface.
- C. If Underground Cables within the fenced perimeter of the solar panels are installed to a minimum depth of 5 feet, they may remain in place after Deconstruction.

## **5. Topsoil Removal and Replacement**

- A. Any excavation shall be performed in a manner to preserve topsoil. Best Efforts shall be made to store the topsoil near the excavation site in such a manner that it will not become intermixed with subsoil materials.
- B. Best Efforts shall be made to store all disturbed subsoil material near the excavation site and separate from the topsoil.
- C. When backfilling an excavation site, Best Efforts shall be used to ensure the stockpiled subsoil material will be placed back into the excavation site before replacing the topsoil.
- D. Refer to Section 7 for procedures pertaining to rock removal from the subsoil and topsoil.
- E. Refer to Section 8 for procedures pertaining to the repair of compaction and rutting of the topsoil.
- F. Best Efforts shall be performed to place the topsoil in a manner so that after settling occurs, the topsoil's original depth and contour will be restored as close as reasonably practicable. The same shall apply where excavations are made for road, stream, drainage ditch, or other crossings. In no instance shall the topsoil materials be used for any other purpose unless agreed to explicitly and in writing by the Landowner.
- G. Based on the mutual agreement of the landowner and Facility Owner, excess soil material resulting from solar facility excavation shall either be removed or stored on the Landowner's property and reseeded per the applicable National Pollution Discharge Elimination System (NPDES) permit/Stormwater Pollution Prevention Plan (SWPPP). After the Facility reaches the end of its Useful Life, the excess subsoil material shall be returned to an excavation site or removed from the Landowner's property, unless otherwise agreed to by Landowner.

## **6. Rerouting and Permanent Repair of Agricultural Drainage Tiles**

The following standards and policies shall apply to underground drainage tile line(s) directly or indirectly affected by Construction and/or Deconstruction:

- A. Prior to Construction, the Facility Owner shall work with the Landowner to identify drainage tile lines traversing the property subject to the Underlying Agreement to the extent

reasonably practicable. All drainage tile lines identified in this manner shall be shown on the Construction and Deconstruction Plans.

- B. The location of all drainage tile lines located adjacent to or within the footprint of the Facility shall be recorded using Global Positioning Systems (GPS) technology. Within 60 days after Construction is complete, the Facility Owner shall provide the Landowner, the IDOA, and the respective County Soil and Water Conservation District (SWCD) with “as built” drawings (strip maps) showing the location of all drainage tile lines by survey station encountered in the Construction of the Facility, including any tile line repair location(s), and any underground cable installed as part of the Facility.

**C. Maintaining Surrounding Area Subsurface Drainage**

If drainage tile lines are damaged by the Facility, the Facility Owner shall repair the lines or install new drainage tile line(s) of comparable quality and cost to the original(s), and of sufficient size and appropriate slope in locations that limit direct impact from the Facility. If the damaged tile lines cause an unreasonable disruption to the drainage system, as determined by the Landowner, then such repairs shall be made promptly to ensure appropriate drainage. Any new line(s) may be located outside of, but adjacent to the perimeter of the Facility. Disrupted adjacent drainage tile lines shall be attached thereto to provide an adequate outlet for the disrupted adjacent tile lines.

**D. Re-establishing Subsurface Drainage Within Facility Footprint**

Following Deconstruction and using Best Efforts, if underground drainage tile lines were present within the footprint of the facility and were severed or otherwise damaged during original Construction, facility operation, and/or facility Deconstruction, the Facility Owner shall repair existing drainage tiles or install new drainage tile lines of comparable quality and cost to the original, within the footprint of the Facility with sufficient capacity to restore the underground drainage capacity that existed within the footprint of the Facility prior to Construction. Such installation shall be completed within 12 months after the end of the useful life of the Facility and shall be compliant with Figures 1 and 2 to this Agreement or based on prudent industry standards if agreed to by Landowner.

- E. If there is any dispute between the Landowner and the Facility Owner on the method of permanent drainage tile line repair, the appropriate County SWCD’s opinion shall be considered by the Facility Owner and the Landowner.
- F. During Deconstruction, all additional permanent drainage tile line repairs beyond those included above in Section 6.D. must be made within 30 days of identification or notification of the damage, weather and soil conditions permitting. At other times, such repairs must be made at a time mutually agreed upon by the Facility Owner and the Landowner. If the Facility Owner and Landowner cannot agree upon a reasonable method to complete this restoration, the Facility Owner may implement the recommendations of the appropriate County SWCD and such implementation constitutes compliance with this provision.
- G. Following completion of the work required pursuant to this Section, the Facility Owner shall be responsible for correcting all drainage tile line repairs that fail due to Construction and/or Deconstruction for one year following the completion of Construction or Deconstruction, provided those repairs were made by the Facility Owner. The Facility Owner shall not be responsible for drainage tile repairs that the Facility Owner pays the Landowner to perform.

## **7. Rock Removal**

With any excavations, the following rock removal procedures pertain only to rocks found in the uppermost 42 inches of soil, the common freeze zone in Illinois, which emerged or were brought to the site as a result of Construction and/or Deconstruction.

- A. Before replacing any topsoil, Best Efforts shall be taken to remove all rocks greater than 3 inches in any dimension from the surface of exposed subsoil which emerged or were brought to the site as a result of Construction and/or Deconstruction.
- B. If trenching, blasting, or boring operations are required through rocky terrain, precautions shall be taken to minimize the potential for oversized rocks to become interspersed in adjacent soil material.
- C. Rocks and soil containing rocks removed from the subsoil areas, topsoil, or from any excavations, shall be removed from the Landowner's premises or disposed of on the Landowner's premises at a location that is mutually acceptable to the Landowner and the Facility Owner.

## **8. Repair of Compaction and Rutting**

- A. Unless the Landowner opts to do the restoration work on compaction and rutting, after the topsoil has been replaced post-Deconstruction, all areas within the boundaries of the Facility that were traversed by vehicles and Construction and/or Deconstruction equipment that exhibit compaction and rutting shall be restored by the Facility Owner. All prior Cropland shall be ripped at least 18 inches deep or to the extent practicable, and all pasture and woodland shall be ripped at least 12 inches deep or to the extent practicable. The existence of drainage tile lines or underground utilities may necessitate less ripping depth. The disturbed area shall then be disked.
- B. All ripping and disking shall be done at a time when the soil is dry enough for normal tillage operations to occur on Cropland adjacent to the Facility.
- C. The Facility Owner shall restore all rutted land to a condition as close as possible to its original condition upon Deconstruction, unless necessary earlier as determined by the Landowner.
- D. If there is any dispute between the Landowner and the Facility Owner as to what areas need to be ripped/disked or the depth at which compacted areas should be ripped/disked, the appropriate County SWCD's opinion shall be considered by the Facility Owner and the Landowner.

## **9. Construction During Wet Weather**

Except as provided below, construction activities are not allowed on agricultural land during times when normal farming operations, such as plowing, disking, planting or harvesting, cannot take place due to excessively wet soils. With input from the landowner, wet weather conditions may be determined on a field by field basis.

- A. Construction activities on prepared surfaces, surfaces where topsoil and subsoil have been removed, heavily compacted in preparation, or otherwise stabilized (e.g. through cement mixing) may occur at the discretion of the Facility Owner in wet weather conditions.

- B. Construction activities on unprepared surfaces will be done only when work will not result in rutting which may mix subsoil and topsoil. Determination as to the potential of subsoil and topsoil mixing will be made in consultation with the underlying Landowner, or, if approved by the Landowner, his/her designated tenant or designee.

#### **10. Prevention of Soil Erosion**

- A. The Facility Owner shall work with Landowners and create and follow a SWPPP to prevent excessive erosion on land that has been disturbed by Construction or Deconstruction of a Facility.
- B. If the Landowner and Facility Owner cannot agree upon a reasonable method to control erosion on the Landowner's property, the Facility Owner shall consider the recommendations of the appropriate County SWCD to resolve the disagreement.
- C. The Facility Owner may, per the requirements of the project SWPPP and in consultation with the Landowner, seed appropriate vegetation around all panels and other facility components to prevent erosion. The Facility Owner must utilize Best Efforts to ensure that all seed mixes will be as free of any noxious weed seeds as possible. The Facility Owner shall consult with the Landowner regarding appropriate varieties to seed.

#### **11. Repair of Damaged Soil Conservation Practices**

Consultation with the appropriate County SWCD by the Facility Owner shall be carried out to determine if there are soil conservation practices (such as terraces, grassed waterways, etc.) that will be damaged by the Construction and/or Deconstruction of the Facility. Those conservation practices shall be restored to their preconstruction condition as close as reasonably practicable following Deconstruction in accordance with USDA NRCS technical standards. All repair costs shall be the responsibility of the Facility Owner.

#### **12. Compensation for Damages to Private Property**

The Facility Owner shall reasonably compensate Landowners for damages caused by the Facility Owner. Damage to Agricultural Land shall be reimbursed to the Landowner as prescribed in the applicable Underlying Agreement.

#### **13. Clearing of Trees and Brush**

- A. If trees are to be removed for the Construction or Deconstruction of a Facility, the Facility Owner shall consult with the Landowner to determine if there are trees of commercial or other value to the Landowner.
- B. If there are trees of commercial or other value to the Landowner, the Facility Owner shall allow the Landowner the right to retain ownership of the trees to be removed and the disposition of the removed trees shall be negotiated prior to the commencement of land clearing.

#### **14. Access Roads**

- A. To the extent practicable, access roads shall be designed to not impede surface drainage and shall be built to minimize soil erosion on or near the access roads.

- B. Access roads may be left intact during Construction, operation or Deconstruction through mutual agreement of the Landowner and the Facility Owner unless otherwise restricted by federal, state, or local regulations.
- C. If the access roads are removed, Best Efforts shall be expended to assure that the land shall be restored to equivalent condition(s) as existed prior to their construction, or as otherwise agreed to by the Facility Owner and the Landowner. All access roads that are removed shall be ripped to a depth of 18 inches. All ripping shall be performed consistent with Section 8.

## **15. Weed/Vegetation Control**

- A. The Facility Owner shall provide for weed control in a manner that prevents the spread of weeds. Chemical control, if used, shall be done by an appropriately licensed pesticide applicator.
- B. The Facility Owner shall be responsible for the reimbursement of all reasonable costs incurred by owners of agricultural land where it has been determined by the appropriate state or county entity that weeds have spread from the Facility to their property. Reimbursement is contingent upon written notice to the Facility Owner. Facility Owner shall reimburse the property owner within 45 days after notice is received.
- C. The Facility Owner shall ensure that all vegetation growing within the perimeter of the Facility is properly and appropriately maintained. Maintenance may include, but not be limited to, mowing, trimming, chemical control, or the use of livestock as agreed to by the Landowner.
- D. The Deconstruction plans must include provisions for the removal of all weed control equipment used in the Facility, including weed-control fabrics or other ground covers.

## **16. Indemnification of Landowners**

The Facility Owner shall indemnify all Landowners, their heirs, successors, legal representatives, and assigns from and against all claims, injuries, suits, damages, costs, losses, and reasonable expenses resulting from or arising out of the Battery Energy Storage Facility, including Construction and Deconstruction thereof, and also including damage to such Facility or any of its appurtenances, except where claims, injuries, suits, damages, costs, losses, and expenses are caused by the negligence or intentional acts, or willful omissions of such Landowners, and/or the Landowners heirs, successors, legal representatives, and assigns.

## **17. Deconstruction Plans and Financial Assurance of Battery Energy Storage Facilities**

- A. Deconstruction of a Facility shall include the removal/disposition of all solar related equipment/facilities, including the following utilized for operation of the Facility and located on Landowner property:
  - 1. Solar panels, cells and modules;
  - 2. Solar panel mounts and racking, including any helical piles, ground screws, ballasts, or other anchoring systems;
  - 3. Solar panel foundations, if used (to depth of 5 feet);

4. Transformers, inverters, energy storage facilities, or substations, including all components and foundations; however, Underground Cables at a depth of 5 feet or greater may be left in place;
  5. Overhead collection system components;
  6. Operations/maintenance buildings, spare parts buildings and substation/switchinggear buildings unless otherwise agreed to by the Landowner;
  7. Access Road(s) unless Landowner requests in writing that the access road is to remain;
  8. Operation/maintenance yard/staging area unless otherwise agreed to by the Landowner; and
  9. Debris and litter generated by Deconstruction and Deconstruction crews.
- B. The Facility Owner shall, at its expense, complete Deconstruction of a Facility within twelve (12) months after the end of the useful life of the Facility.
- C. During the County permit process, or if none, then prior to the commencement of construction, the Facility Owner shall file with the County a Deconstruction Plan. The Facility Owner shall file an updated Deconstruction Plan with the County on or before the end of the tenth year of commercial operation.
- D. The Facility Owner shall provide the County with Financial Assurance to cover the estimated costs of Deconstruction of the Facility. Provision of this Financial Assurance shall be phased in over the first 11 years of the Project's operation as follows:
1. On or before the first anniversary of the Commercial Operation Date, the Facility Owner shall provide the County with Financial Assurance to cover ten (10) percent of the estimated costs of Deconstruction of the Facility as determined in the Deconstruction Plan.
  2. On or before the sixth anniversary of the Commercial Operation Date, the Facility Owner shall provide the County with Financial Assurance to cover fifty (50) percent of the estimated costs of Deconstruction of the Facility as determined in the Deconstruction Plan.
  3. On or before the eleventh anniversary of the Commercial Operation Date, the Facility Owner shall provide the County with Financial Assurance to cover one hundred (100) percent of the estimated costs of Deconstruction of the Facility as determined in the updated Deconstruction Plan provided during the tenth year of commercial operation.

The Financial Assurance shall not release the surety from liability until the Financial Assurance is replaced. The salvage value of the Facility may only be used to reduce the estimated costs of Deconstruction if the County agrees that all interests in the salvage value are subordinate or have been subordinated to that of the County if Abandonment occurs.

- E. The County may, but is not required to, reevaluate the estimated costs of Deconstruction of any Facility after the tenth anniversary, and every five years thereafter, of the Commercial Operation Date. Based on any reevaluation, the County may require changes in the level of Financial Assurance used to calculate the phased Financial Assurance levels described in Section 17.D. required from the Facility Owner. If the County is unable to its satisfaction to perform the investigations necessary to approve the Deconstruction Plan filed by the Facility Owner, then the County and Facility may mutually agree on the selection of a Professional Engineer independent of the Facility Owner to conduct any necessary investigations. The Facility Owner shall be responsible for the cost of any such investigations.
- F. Upon Abandonment, the County may take all appropriate actions for Deconstruction including drawing upon the Financial Assurance.

### Concurrence of the Parties to this AIMA

The Illinois Department of Agriculture and \_\_\_\_\_ concur that this AIMA is the complete AIMA governing the mitigation of agricultural impacts that may result from the Construction and Deconstruction of the solar farm project in \_\_\_\_\_ County within the State of Illinois.

The effective date of this AIMA commences on the date of execution.

STATE OF ILLINOIS  
DEPARTMENT OF AGRICULTURE

\_\_\_\_\_

By: Jerry Costello II, Director

\_\_\_\_\_  
By \_\_\_\_\_

\_\_\_\_\_  
By Tess Feagans, General Counsel

\_\_\_\_\_  
Address

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