

ZONING RESOLUTION  
MERCER COUNTY, ILLINOIS

Prepared by:  
Mercer County Zoning Committee and Zoning Board of Appeals

With assistance from  
Bi-State Metropolitan Planning Commission  
Rock Island, Illinois

Now Approved by the Mercer County Zoning Board of Appeals  
Now Approved by the Mercer County Zoning Committee  
Now Approved by the Mercer County Board January 2014

It is clearly understood that this document will always be a work in progress as changes in our environment, society, and government occur. And as the members of the Boards change, it is understood that they are charged with keeping the articles of these ordinances as current as possible to keep Mercer County also current with all matters of zoning.

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CHAPTER I  
RULES, REGULATIONS AND DEFINITIONS

RULES, REGULATIONS AND DEFINITIONS

ZONING RESOLUTION FOR  
THE UNINCORPORATED AREAS OF  
MERCER COUNTY, ILLINOIS

BE IT RESOLVED BY THE MERCER COUNTY BOARD OF ILLINOIS AS FOLLOWS:

ARTICLE I

AUTHORITY, TITLE, PURPOSE AND NATURE

Section 1.1: AUTHORITY AND TITLE

This Resolution, pursuant to the authority granted by the 1969 Revised Statutes of the State of Illinois, Chapter 34, Sections 3151-3162 and Sections 3201-3204, shall be known and cited as the "Zoning Resolution of Mercer County, Illinois."

Section 1.2: PURPOSE

The provisions contained herein are necessary for the purpose of promoting the public health, safety, morals, comfort and general welfare, conserving the values of property throughout the County, lessening or avoiding congestion in the public streets and highways, reducing fire hazards and improving public safety, preventing undue concentrations of population, preserving prime agricultural lands, and creating a stable pattern of land uses upon which to plan for transportation, water supply, sewers, schools, parks, and other facilities. The aforementioned purposes shall be the guide to the enforcement of the provisions contained herein.

Section 1.3: NATURE

This Resolution shall divide the unincorporated area of Mercer County into districts, regulate therein the use of land, buildings, and structures; regulate the location, erection, construction, reconstruction, and alteration of such buildings and structures; regulate the height, number of stories, and size of all buildings and other structures ; and regulate the density of population.

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ARTICLE II

EXEMPTIONS

Illinois Revised Statutes, Chapter 34, Section 3151 provides that permits with respect to the erection, maintenance, repair, alteration, remodeling or extension of buildings or structures used or to be used for agricultural purposes shall be issued free of charge. It further provides that the powers of the Act shall not be exercised so as to impose regulations or require permits with respect to land used or to be used for agricultural purposes, 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 such buildings or structures for agricultural purposes may be required to conform to building or set back lines.

- a. Agricultural buildings and land uses are not exempt from complying with any Federal, State, or Local regulations concerning developing, depositing, or Excavating in or on the designated Mercer County flood plain.
- b. Agricultural structures shall comply with the following minimum set back Requirements:
  1. 75' from the centerline of a Township road.
  2. 100' from the centerline of a County, State, and/or Federal highway.
  3. 40' from the right-of-way line, if it is greater.
- c. It shall be the responsibility of any person or group claiming that certain property is entitled to exemption on the basis of these Articles to demonstrate that the property and buildings are primarily adapted and used for agricultural purposes.



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ARTICLE III

INTERPRETATION OF REGULATIONS

In the interpretation and application of this Resolution, the provisions made shall be held to be minimum requirements. Where this Resolution imposes a greater restriction than is imposed or required by other provisions of law or by other rules, regulations, or restrictive covenants, the provisions of this Resolution shall apply.

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ARTICLE IV

RULES AND REGULATIONS

Section 4.1: RULES

The language set forth in the text of this Resolution shall be interpreted in Accordance with rules and definitions contained in this Article, except when the context clearly indicates otherwise.

- a. Words used in the present tense shall include the future; and Words used the singular number shall include the plural Number, and the plural the singular.
- b. The word "Shall" is mandatory and not discretionary.
- c. The word "May" is permissive.
- d. The word "lot" shall include the words "plot", "piece" and "parcel"; the word "premises" shall include the word "land"; the word "building" includes all other structures of every kind regardless of similarity to buildings; and the phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for".
- e. When district lines are shown following highways or railroads, the dividing line shall be the center of such rights-of-way.
- f. Measured distances shown on the plan are exact distances. Where no measured distances are shown the length of the line shall be scaled.

Section 4.2: DEFINITIONS

**AFFILIATE.** "Affiliate" shall include any parent or subsidiary Corporation, any person owning of record or beneficially more than 10 Percent of the voting stock of any corporation or other association of individuals, and any partner.

**AGRICULTURE.** "Agriculture" shall mean the primary use of land for the growing of crops or the raising and keeping of livestock and poultry, and shall include farming, dairying, truck farming, apiaries, aviaries, horticulture, floriculture, viticulture, nurseries, orchards, vineyards, forestry, and animal or poultry husbandry, and the buildings and structures accessory to and necessary for carrying out such operations, including farm dwellings as herein defined, located on a farm.

**AGRI-TOURISM.** "Agri-tourism" shall mean an enterprise located at a working farm, ranch, or other agricultural operation or agricultural plant/facility conducted for the enjoyment and education of visitors, guests or clients that generates income

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for the owner/operator. Agri-tourism encompasses a variety of activities including the following (but not exclusive):

- Horseback riding
- Wildlife viewing & photography
- Fee fishing
- Camping/picnicking (combined)
- Farm and Country weddings
- Fee hunting
- Wagon/sleigh rides
- Art and instruction
- Cross-country skiing
- Game preserve
- Clay bird shooting
- Gift and Craft sales
- On-farm sales
- Roadside stand
- Agriculture-related crafts/gifts
- U-pick operations
- Bed & breakfast inn
- Farm/ranch vacations
- Guest ranch/Day spa
- Petting zoo
- Hunting/working dog trials/training
- School tours
- Garden/nursery tours
- Winery/Winery tours
- Agricultural technical tours
- Historical agriculture exhibit
- Micro-brewery/Distillery and tours
- Exotic animal farm

**AIRCRAFT.** Any contrivance, now known or hereafter invented, for use or designed for navigation flight in the air.

**AIRPORT. (LANDING FIELD OR HELIPORT)** Any area of land which is used, or intended for use, for the landing and taking off of aircraft; and any appurtenant areas which are used or intended for use for airport building or other airport facilities or rights-of-way, together with all airport building and facilities located thereon.

**ALLEY.** A public right-of-way with a width not exceeding 24 feet, which affords a secondary means of access to abutting property.

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

**AUTO LAUNDRY.** A building or portion thereof where automobiles are washed with the use of a conveyor and blower, or other cleaning device.

**AUTO SERVICE STATION (GAS STATION).** Any building or premises used for dispensing, sale, or offering for sale any automotive fuels or oils; having pumps and storage tanks; also where battery, tire and other services are rendered, but only if rendered wholly within lot lines. When such dispensing, sale, or offering for sale of any fuels or oils is incidental to the conduct of a public garage, the premises shall be classified as a public garage. Auto service stations do not include automobile or trailer sales lots, new or used, on which such vehicles are parked for purposes of inspection and sale.

**AUTO WRECKING YARD.** Any place where one or more motor vehicles not in running condition, or the parts thereof, are stored in the open and are not being restored to operation; or any land, building, or structure used for the wrecking or storing of such automobiles or the parts thereof, but excluding antique vehicles in enclosed storage and farm trucks in use as wagons for agricultural operations.

**AUXILIARY USE.** A use customarily incidental and accessory to the permitted use of the lot.

**BASEMENT.** A building having more than half a story below ground.

**BLOCK.** A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, bulkhead lines or shore lines of waterways, or corporate boundary lines.

**BOARDING HOUSE (ROOMING OR LODGING HOUSE).** A building containing a single dwelling unit and lodging rooms accommodating for compensation, three or more persons, but not exceeding twelve, who are not of the keeper's family. Lodging may be provided with or without meals.

**BUILDING.** Any structure which is built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and which is permanently affixed to the land.

**BUILDING ACCESSORY.** A subordinate building or a portion of a principal building, the use of which is incidental and customary to that of the principal building. Where an accessory building is attached to and made a part of the principal building, such accessory building shall comply in all respects with the requirements of this ordinance applicable to the principal building.

## RULES, REGULATIONS AND DEFINITIONS

**BUILDING AREA.** The area bounded by the exterior dimensions of the outer walls at the ground line.

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

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

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

**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.

**BULK.** Bulk is the term used to indicate the size and setbacks of buildings or structures and the location of same with respect to one another, and includes the following:

- a. Size and height of buildings;
- b. Location of exterior walls at all levels in relation to lot lines, streets, or to other buildings;
- c. Gross floor area of buildings in relation to lot area (floor area ratio);
- d. All open spaces allocated to buildings;
- e. Amount of lot area provided per dwelling unit.

**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. (See Home Business)

**CLINIC.** A clinic is an establishment where patients who are not lodged overnight are admitted for examination and treatment by physicians practicing medicine together.

**CLUB, OR LODGE, PRIVATE.** A "private club or lodge" is 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 and their guests. It shall be permissible to serve food and meals on such premises providing adequate dining room space and kitchen facilities are available.

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**CONSTRUCTED.** Set up, erected, built, raised or moved into place.

**COUNTY.** Means Mercer County, Illinois.

**COUNTY BOARD.** Means the Mercer County Board.

**CURB LEVEL.** The curb level for any building is the level of the established curb in front of such building measured at the center of such front. Where no curb elevation has been established, it shall be deemed to be the elevation of the center line of the street surface measured at right angles to the curb line.

**CURB LINE.** Established curb alignment or where not so established the edge of the vehicular-way pavement.

**DAY NURSERY, NURSERY SCHOOL OR DAY CARE (PUBLIC).** Any agency, institution, establishment or place which provides supplemental parental care and/or educational work, other than lodging overnight for 6 or more children of pre-school age, for compensation.

**DECIBEL.** A unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in decibels.

**DISTRICT.** A section or part of the unincorporated portion of the county for which the use regulations are uniform.

**DWELLING.** A residential building, or portion thereof; but not including hotels, motels, boarding or rooming houses, tourist homes, trailers or mobile homes.

**DWELLING UNIT.** A group of rooms constituting all or part of a dwelling which is arranged, designed, used, or intended for use exclusively as living quarters for one family and not more than an aggregate of two roomers or boarders, and which includes complete kitchen facilities permanently installed.

**DWELLING, DETACHED.** A residential building containing one dwelling unit.

**DWELLING, SINGLE-FAMILY.** A residential building containing one dwelling unit.

**DWELLING, TWO-FAMILY.** A residential building containing two dwelling units, including detached, semi-detached; and attached dwellings.

**DWELLING, MULTIPLE-FAMILY (APARTMENT OR APARTMENT HOTEL).** A building or portion thereof containing three or more dwelling units.

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

**FAMILY.** One or more persons occupying a dwelling and living as a single housekeeping unit and maintaining a common household in a dwelling unit, as distinguished from a group occupying a boarding house or hotel as herein defined.

**IMMEDIATE FAMILY OF AN INDIVIDUAL.** Any or all persons related to an individual in the relationship of brother, sister, parent or child, either by blood or by law.

**FARM.** A "farm" is an area which is used for the growing of the usual farm products such as vegetables, fruit (vineyards), trees, flora, fauna, and grain, and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals, such as cattle, sheep, goats, llamas, alpacas, fish, shrimp, poultry, \*horses, and swine, provided that the raising and feeding of such farm poultry and farm animals shall be subject to the regulations of the State of Illinois Environmental Protection Agency. The term "farming" includes the operating of such an area for one or more of the above uses, including dairy farms with the necessary accessory uses for treating and storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activities, and provided further that farming does not include the extraction of minerals.

\* See Illinois Property Tax Code 35 ILCS 200/1-60

**FARM DWELLING.** A dwelling unit used primarily by the Farm Operator and/or owner and his or her immediate family.

**FARM OPERATOR.** An individual who is primarily or jointly accountable for the operation of a farm and is actively and personally engaged in agricultural production there from.

**FARM WORKER.** Any individual employed to work on a farm and to perform the work ordinarily done there. Farm worker does not include a person who is employed as a farm contractor to provide a service from farm to farm such as detasselling; custom combining, baling or picking; livestock health care; application of fertilizer, herbicide, fungicide or insecticide; or the like.

**FARM WORKER (SEASONAL).** An individual engaged as a farm worker, either full-time or part-time, whose employment and residence at any given farm are seasonal or temporary.

**FENCE, SOLID.** A fence, including solid entrance and exit gates, which effectively conceals from view from adjoining properties and streets, materials that are stored and operations conducted behind it.

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**FLOOR AREA, GROSS.** For the purpose of determining Floor Area Ratio, the floor area of a building or buildings shall be the sum of the Gross horizontal areas of the several floors of such building or buildings, measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings. In particular, "gross floor area" shall include:

- a. Basement space provided that: (1) for buildings having walls adjoining the street, at least one-half of the basement story height is above the established curb level; (2) for buildings having no walls adjoining the street, at least one-half of the basement story height is above the average level of the finished ground adjacent to the exterior walls of the building.
- b. Elevator shafts and stairwells at each floor.
- c. Floor space used for mechanical equipment where the structural headroom exceeds seven and one-half feet; except equipment, open or enclosed located on the roof; i.e. bulkheads, water tanks and cooling towers.
- d. Attic floor space where the structural headroom exceeds seven and one-half feet.
- e. Interior balconies and mezzanines.
- f. Enclosed porches, but not terraces and breezeways.

**FLOOR AREA, GROSS.** For the purpose of determining requirements for off-street parking and off-street loading, the floor area shall mean the sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to such use, including accessory storage areas located within selling or working space, such as counters, racks, or closets, and any basement floor area of goods, or to business or professional offices. However, floor area for purposes of measurement for off-street parking spaces shall not include: floor area devoted primarily to storage purposes (except as otherwise noted herein); floor area devoted to off-street parking or loading facilities, including aisles, ramps and maneuvering activities, to the production or processing of goods, or to business or professional offices.

**FLOOR AREA RATIO.** The numerical value obtained through dividing the gross floor area of a building or buildings by the total area of the lot or parcel of land on which such building or buildings are located.

**FREQUENCY.** The number of oscillations per second in a sound wave, measuring the pitch of the resulting sound.

**FRONTAGE.** All the property on one side of a street or highway between two intersecting streets or highways (crossing or termination), measured along the line



## RULES, REGULATIONS AND DEFINITIONS

of the street or highway; or, if the street or highway is dead ended, then all of the property abutting on one side between an intersecting street or highway and the dead end of the street or highway.

**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 a 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 commercial vehicle shall not exceed five tons.

**GARAGE, PUBLIC.** Any building where automotive vehicles are painted, repaired, rebuilt, reconstructed and/or stored for compensation.

**GARBAGE.** Any odorous, putrescible, or combustible waste materials.

**GARBAGE DISPOSAL.** Collected or community garbage disposal by Covered burial or incineration within a fully enclosed building.

**GARBAGE FARMING.** The feeding or storage of community or collected garbage and similar food wastes.

**GRADE, FINISHED.** The finished grade at foundation line is the lowest point of elevation of the ground surface after development.

**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 of each nine-hole "par 3" course.

**HOME BUSINESS.** An occupation or profession with similar characteristics to those of a home occupation except that same is not customarily carried on by an occupant of a dwelling unit as a secondary use which is clearly incidental to the use of the dwelling unit for residential purposes. Such uses shall be subject to the following requirements.

- a. The petitioner shall file for a special use permit with the Zoning Department. If the petitioner obtains written consent of all the adjoining property owners and fulfills the requirements specified herein, then such use shall be permitted as an accessory use within the dwelling. The consents of the property owners and the fulfilling of the requirements herein shall be verified by the Zoning Department.

## RULES, REGULATIONS AND DEFINITIONS

- b. If the petitioner is unable to obtain the consents of all of the adjoining property owners then a public hearing will be held on the special use permit by the Zoning Board of Appeals to evaluate the effect on the surrounding properties.
- c. Home businesses shall be operated entirely within the principle dwelling or one accessory building no more than 30% of total square footage shall be used. Limited outdoor storage is acceptable as long as property doesn't create nuisance or visible obstruction to neighboring properties. Not more than one sign shall be displayed as allowed in the sign regulations for the district in which such home business is located.
- d. Home businesses shall employ only immediate family members who reside on the premises.
- e. Such use shall be provided with a parking area to accommodate at least 2 cars in addition to the cars of the occupant. Such off-street parking area shall not be located in any required front yard and shall be appropriately landscaped so that it does not detract from the residential character of the property or its surroundings.
- f. The Zoning Board of Appeals may recommend the imposition of such other reasonable restrictions as it deems necessary to protect the petitioner and the surrounding properties.
- g. If the use of the premises is discontinued for a period of one year or more and/or the Petitioner leases, assigns or transfers interest in the said premises, the special use shall become void and of no legal effect as though it was not granted. Exception of family member transfer.
- h. If at any time during the operation of the home business, 50 percent or more of the adjoining property owners file a petition with the Zoning Department objecting to the manner in which the home business is being operated, a public hearing by the Zoning Board of Appeals will be held to verify the objections. A report summarizing the findings of fact and a recommendation shall be forwarded to the County Board for a determination.

**HOME OCCUPATION.** A home occupation is an occupation or profession customarily carried on by occupants of a dwelling unit as secondary use which is clearly incidental to the use of the dwelling unit for residential purposes. Such uses shall be subject to the following requirements:

- a. Such a home occupation shall be carried on within the principal building, and no other than immediate family members currently living on the premises shall be employed.
- b. No more than 30% of the total square feet of floor space shall be used for the home occupation.

## RULES, REGULATIONS AND DEFINITIONS

- c. There shall be no exterior display, no exterior sign except as allowed in the sign regulations for the district in which such home occupation is located, no exterior storage or variation from the residential character of the principal building and no offensive noise, vibration, smoke, dust, odor, heat, glare, or vehicle parking nuisances shall be created.
- d. The business of selling stocks of merchandise, supplies, or products shall not be conducted on the premises provided that order previously made by telephone, internet, or at a sales party may be filled on the premises. That is, direct sales of products off display shelves, racks or from inventory is not allowed, but a person may pick up an order placed earlier as described above.
- e. The home occupation shall not create greater vehicle or pedestrian traffic than normal for the district it is located, including commercial and general delivery services.
- f. The home occupation shall have no use of material or equipment not recognized as being part of the normal practices of owning and maintaining a residence.

**HOTEL.** A building in which lodging or boarding and lodging are provided for more than 12 persons and offered to the public for compensation, and in which ingress or egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradistinction to a boarding house, a rooming house, or a multiple dwelling, as herein separately defined.

**INOPERABLE MOTOR VEHICLE.** Any motor vehicle from which, for a period of at least 6 months, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own power.

**INSTITUTION.** A non-profit corporation or a non-profit establishment for public use.

**JUNK YARD.** An open area where waste, used or second hand materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rag, rubber tires and bottles. A junk yard includes an auto-wrecking yard, but does not include uses established entirely within enclosed buildings. The presence on any lot of more than 1 inoperable motor vehicle for a period exceeding 30 days shall constitute evidence of a junk yard.

**KENNEL.** Any premise or portion thereof on which more than three dogs, cats or other household domestic animals over 4 months old are kept or on

## RULES, REGULATIONS AND DEFINITIONS

which more than two such animals are maintained, boarded, bred or cared for in return for remuneration or are kept for the purpose of sale.

**LAUNDROMAT.** A business that provides home type washing, drying and/or ironing machines for hire to be used by customers on the premises.

**LOT.** A parcel of land occupied or intended for occupancy by a use permitted in this ordinance, including one main building together with its accessory buildings, the open spaces and parking spaces required by this ordinance and having its principal frontage upon a street.

**LOT AREA.** The area of horizontal plane bounded by the vertical planes through front, side and rear lot lines.

**LOT, CORNER.** A lot situated at the junction of and abutting on two or more intersecting streets; 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, DEPTH.** The mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

**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, FRONT.** That boundary of a lot which is along an existing or dedicated street. The owner of a corner lot may select either street lot line as the front lot line.

**LOT LINE, REAR.** That boundary of a lot which is most distance from and is; or is approximately, parallel to the front lot line. If the rear lot line is less than ten 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 feet in length within the lot, parallel to and at the maximum distance from the front lot line.

**LOT OF RECORD.** A lot which is a part of a subdivision, the map of which has been recorded in the office of the Recorder of Deeds of Mercer County, Illinois; or a parcel of land, the deed to which was recorded in the office of the Recorder of Deeds prior to the adoption of this ordinance.

**LOT LINE, SIDE.** Any boundary of a lot which is not front or rear lot line.

**LOT, REVERSED CORNER.** A corner lot the 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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**LOT, THROUGH.** A lot which has a pair of opposite lot lines along two more or less parallel public streets, and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.

**LOT WIDTH.** The mean horizontal distance between the side lot lines of a lot measured within the lot boundaries, or the minimum distance between the side lot lines within the buildable area.

**MOBILE HOME.** A factory-assembled structure or structures equipped with the necessary service connections and assigned so as to be readily movable as a unit or units on their own or auxiliary running gear and designed to be used as a dwelling unit) with or without a permanent foundation; the phrase "without a permanent foundation" indicates that the support system is constructed with the intent that the mobile home placed thereon may be moved from time to time at the convenience of the owner. However, such a structure, if placed on a permanent foundation, shall still be considered a mobile home. A travel trailer is not to be considered a mobile home.

**MOTEL OR MOTOR COURT.** An establishment consisting of a group of attached living or sleeping accommodations with individual bathrooms, and designed for use by transients.

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

**MOVED STRUCTURE.** A structure permanently established upon a piece of land after removing same from another part of the same or different premises.

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

**NOXIOUS MATTER.** Material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of human beings.

**NURSING HOME or REST HOME.** A home for the aged, chronically ill or incurable persons in which 3 or more persons not of the immediate family are received, kept or provided with food or shelter and care for compensation; but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis, treatment or care of the sick or injured.

**OCTAVE BAND.** A means of dividing the range of sound frequencies into octaves in order to classify sound according to pitch.

**OCTAVE BAND FILTER.** An electrical frequency analyzer, designed according to standards formulated by the American Standards Association and used in

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conjunction with a sound-level meter to take measurements in specific octave intervals. (American Standards for Sound-Level Meters, A.S.A. - No. 224.3 - 1944).

**OFF-STREET LOADING.** A space, accessible from a street, alley or way, in a building or on a lot, for the use of trucks while loading or unloading merchandise or materials.

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

**PARKING SPACE.** A suitable surfaced and permanently maintained area on privately-owned property, either within or outside of a building, of sufficient size to store one standard automobile, but in no instance less than 180 square feet, exclusive of passageways, driveways, or other means of circulation or access.

**PARTICULATE MATTER.** Material, other than water, which is suspended in or discharged into the atmosphere in finely divided form as a liquid or solid.

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

**PLACE.** An open, unoccupied space of a public or private thoroughfare other than a street or alley permanently reserved and officially approved by the proper public agency as the principal means of access to abutting property.

**PLANNED DEVELOPMENT.** A tract of land which is developed as an integrated unit under single ownership or control, which includes two or more principal buildings, and where the specific requirements of a given district may be modified.

**PLAT ACT.** An act regulating the division and recording of property. (See Chapter 109, Illinois Revised Statutes, 1979)

**PUBLIC OPEN SPACE.** Any publicly-owned open area; including but not limited to the following: parks, playgrounds, forest preserves, beaches, waterways, parkways and streets.

**RESEARCH LABORATORY.** A building or group of buildings in which are located facilities for scientific research, investigation, testing or experimentation, but no facilities for the manufacture of products for sale or lease.

**RETAIL.** "Retail" refers to the sale of commodities and services directly to customers.

## RULES, REGULATIONS AND DEFINITIONS

**RINGELMANN CHART.** A chart which is described in the U.S. Bureau of Mines Information Circular 6888, and on which are illustrated graduated shades of gray for use in estimating the light-obscuring capacity of smoke.

**RINGELMANN NUMBER.** The numbers appearing on the Ringelmann Chart designating the graduations in shades of gray for use in the Chart. Where the density or light-obscuring capacity of the smoke as observed falls between two consecutive Ringelmann numbers, the lower Ringelmann number shall be considered the density of the smoke observed.

**ROW HOUSE.** A "row house" is anyone of three or more one-family attached dwellings in a continuous row or rows.

**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.

**SERVICE STATION.** Any building, structure or land used for the dispensing, sale, or offering for sale at retail of any automobile fuels, oils, or accessories and in connection with which is performed general automotive servicing as distinguished from automotive repairs.

**SETBACK, FRONT-YARD.** The minimum horizontal distance between the front line or side line of the building and nearest the street line, disregarding steps and unroofed porches.

**SEWER SYSTEM AND TREATMENT.** Devices made for the collection, treatment and disposal of sewage.

**SIGN, ADVERTISING (BILLBOARD).** A sign which directs attention to a business, commodity, service, or entertainment not necessarily sold upon the premises where such sign is located, or to which it is affixed. A double face or V type sign, erected on a single supporting structure where the interior angle does not exceed 135 degrees shall for the purpose of computing square foot area be considered and measured as a single face sign.

**SIGN, BUSINESS.** A sign which directs attention to a business or profession conducted, or to a commodity, service, or entertainment sold or offered, upon the premises where such sign is located, or to which it is affixed.

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

## RULES, REGULATIONS AND DEFINITIONS

**SIGN, GROSS SURFACE AREA OF.** 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 element lying outside the limits of such sign and not forming an integral part of the display.

**SMOKE.** Small gas-borne particles resulting from incomplete combustion, consisting predominantly of carbon and other combustible material and present in sufficient quantity to be observable independently of the presence of other solids.

**SMOKE UNITS, NUMBER OF.** The number obtained by multiplying the smoke density in Ringelmann numbers by the time of emission in minutes. For the purpose of this calculation a Ringelmann density reading is made at least once every minute during the period of observation; each reading is then multiplied by the time in minutes during which it is observed; the various products are then added together to give the total number of smoke units observed during the total period under observation.

**SOUND-LEVEL METER.** An instrument standardized by the American Standard Association for measurement of intensity of sound.

**STABLE, PRIVATE.** A stable is 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.** A building where horses are kept for remuneration, hire or sale.

**STAND, ROADSIDE.** A structure for the display and sale of only farm products. Referenced above under Agri-tourism and Zoning Districts 6.7:01.

**STORY.** That portion of a building included between the surface of any floor and the surface of the floor next above, or if there is no floor above, the space between the floor and the ceiling next above. A basement shall be counted as a story for the purposes of this ordinance when more than one-half of such basement height is above the established curb level.

**STREET.** All property dedicated or intended for public or private street, highway, freeway, or roadway purposes or subject to public easements therefore.

**STREET LINE.** The dividing line between a lot and a contiguous street.

**STRUCTURAL ALTERATIONS.** Any change, other than incidental repairs, in the supporting members of a building or structure, such as bearing walls or partitions, columns, beams or girders; or any substantial change in the roof or exterior walls.



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**STRUCTURE.** Anything erected, the use of which requires more or less permanent location on the ground; or attached to something having a permanent location on the ground. A sign, billboard, or other advertising medium detached or projecting shall be construed to be a structure.

**SWIMMING POOL.** A receptacle for water either above or below grade level, permanent or temporary, having a perimeter of more than 25 feet and/or a depth of more than 2 feet at any point.

**TOURIST HOME.** A building which contains a single dwelling unit and in which meals or lodging or both are provided or offered to transient guests for compensation.

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

**TRAILER COACH.** Any enclosure or vehicle used for living, sleeping, business or storage purposes having no foundation other than wheels, blocks, skids, jacks, horses or skirting and which is, has been, or reasonably may be equipped with wheels or other devices for transporting it from place to place whether by motive power or other means. The term "trailer coach" shall include camp car and house car.

**TRAILER COURT, TRAILER PARK, MOBILE HOMES.** A plot of ground upon which one or more occupied trailer coaches is located as defined by the Illinois Environmental Protection Agency and Illinois Department of Health.

**USE.** The purpose or activity for which the land, or building thereon, is designed, arranged or intended, or for which it is occupied or maintained.

**USE, ACCESSORY.** A subordinate use which is clearly and customarily incidental to the principal use of a building or premises and which is located on the same lot as the principal building or use, except for such accessory parking facilities as are specifically authorized to be located elsewhere.

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

**USE, NON-CONFORMING.** Any lawfully established use of a building or premises which on the effective date of this ordinance, or amendment thereto, does not conform with all of the applicable use regulations of the district in which such building or premises shall be located.

**VARIANCE.** A "variance" is a relaxation of the terms of this Resolution which will not be contrary to the public interest, and where, owing to conditions peculiar to the

## RULES, REGULATIONS AND DEFINITIONS

property and not the result of the actions of the applicant, a literal enforcement of this Resolution would result in unnecessary and undue hardship.

**YARD.** An open space on a lot which is unoccupied and unobstructed from its lowest level to the sky, except as otherwise provided herein.

A yard extends along a line and at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such lot is located.

**YARD, FRONT.** The yard extended across the front of a lot between the side lot line, and being the minimum horizontal distance between the street line and the main building or any projections thereof other than the projections of uncovered steps, uncovered balconies, or unenclosed porches and the rear lot line. On all lots, the rear yard shall be at the opposite end of the lot from the front yard.

**YARD, REAR.** The portion of the yard on the same lot with the principal building, located between the rear line of the building and the rear lot line and extending for the full width of the lot; provided that in those locations where an alley is platted in the rear of the lots, one-half of the width of the platted alley may be included in the rear yard requirement.

**YARD, SIDE.** A yard extending along a side lot line between the front and rear yards.

**ZONING BOARD.** The Mercer County Zoning Board of Appeals.

**ZONING ENFORCING OFFICER.** Wherever in this resolution the term Zoning Enforcing Officer is used, it shall mean the Zoning Enforcing Officer 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/her duty to administer and enforce the provisions of the Zoning Resolution, within the laws of local, state, and federal guidelines, making such determinations, interpretations and orders as are necessary therefore, and requiring such plats, plans, and other descriptive material in connection with applications for permits as are necessary for him/her to judge compliance with this resolution.

CHAPTER II  
ZONING DISTRICTS

## ZONING DISTRICTS

### ARTICLE V

## ZONING DISTRICTS

#### Section 5.1: DISTRICTS

For the purposes of this Resolution, all land located outside of the Incorporated municipalities in Mercer County is hereby divided into the Following districts:

##### Agriculture

AG-1 Agricultural District  
AG-2 Agribusiness District

##### Residential

R-1 Single Family Residence District  
R-2 General Residence District  
R-3 Seasonal Home District  
R-4 Mobile Home District

##### Commercial

C-1 General Commercial District

##### Industrial

I-1 General Industrial District

#### Section 5.2: MAPS

The location and boundaries of the districts established by this Resolution are set forth on the zoning maps for the townships and the enlarged maps for intense use areas which are incorporated therein and hereby made a part of this Resolution. The said maps, together with everything shown thereon and all amendments thereto, shall be as much a part of this Resolution as though fully set forth and described herein. The said maps shall be filed in the Mercer County Board Room, and shall be open to public reference at all times during which that office is open.

#### Section 5.3: BOUNDARIES OF DISTRICTS

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

## ZONING DISTRICTS

1. District boundary lines are either the center lines of railroads, Highways, streets, alleys, or easements, or the boundary lines of sections, quarter sections, division of sections, tracts or lots; or such lines extended unless otherwise indicated.
2. In areas not subdivided into lots and blocks, wherever a district is indicated as a strip adjacent to and paralleling a street or highway, the depth of such strips shall be in accordance with dimensions shown on the maps measured at right angles from the street or highway, and the length of frontage shall be in accordance with dimensions shown on the map from section, quarter section, or division lines, or center lines of streets, highways, or railroad rights-of-way unless otherwise indicated.
3. Where a district boundary line divides a lot in single ownership, the regulations for either portion of the lot may, in the owner's discretion, extend to the entire lot, but not more than 25 feet beyond the boundary line of the district.

### Section 5.4: DISCONNECTED TERRITORY

Any additions to the unincorporated area of the county, resulting from disconnection by municipalities or otherwise, shall be automatically classified as in the AG-1 Agricultural District until otherwise classified by amendment under the procedure established under Article XV, Section 15.8.

ARTICLE VI  
GENERAL PROVISIONS

Section 6.1: PERMITTED USES

The following uses are permitted in all zoning districts (IRS Ch. 34 Section 3151):

1. Agriculture, as defined in Article IV.
2. Temporary use of land for the installation, maintenance and operation of facilities used by contractors in the ordinary courses of construction activities, except that such facilities may be required to be located not less than 1,000 feet from any building used for residential purposes, and except that the period of such temporary use shall not exceed the duration of the construction contract.
3. Public utility distribution equipment such as poles, towers, wires, cables, conduits, laterals, etc.
4. All other uses are permitted only as listed under each specific zoning district.

RESOLUTION

AMENDING CERTAIN PARTS OF THE MERCER COUNTY ZONING ORDINANCE  
MOBILE/MANUFACTURED/MODULAR OR PANELIZED HOMES/HOUSING

WHEREAS, the Mercer County Board is empowered pursuant to Illinois Revised Statues, Chapter 34, Section 5-12001, to regulate and restrict the location and use of buildings and structures within Mercer County;

AND WHEREAS, the Mercer County Board feels it is in the best interest of Mercer County to modify and amend the existing regulations in the best interest of the public health and safety to establish the following standards relating to the installation of manufactured/mobile/modular or panelized housing;

AND WHEREAS, proper notice and hearing pursuant to Illinois Revised Statues, Chapter 34, Section 5-12014, regarding text amendments to Mercer County Zoning Regulations, has been given;

IT IS THEREFORE, HEREBY RESOLVED by the Mercer County Board that the following text amendment to the current Mercer County Zoning Regulations supersede all earlier regulations relating to manufactured homes/housing, as that term is defined by this newly enacted amendment, and that such new regulations are to replace current Mercer County Zoning Regulations. Such regulations to read as follows:

Section 6.1:01  
Article 1- Title

This shall be called the "MOBILE/MANUFACTURED/MODULAR OR PANELIZED HOME INSTALLATION ORDINANCE"

Article 2 - Purpose

To promote and provide for the health, safety, and welfare of the consumer, general public, owners, and occupants of mobile/manufactured/modular or panelized homes by creating certain standards to ensure that all newly installed or replacement mobile/manufactured/modular or panelized homes located or placed within Mercer County, Illinois provide said persons with healthy and safe housing.

Article 3 - Definitions

Install - Placing, by any means, a unit anywhere within the unincorporated limits of Mercer County, including the placing of a unit on the ground resting wholly upon a State of Illinois defined permanent foundation for residential occupancy or other general use.  
Mobile/Manufactured/Modular or Panelized Home - A transportable, moveable, or portable unit constructed to be towed or hauled in one or more sections on its own chassis, or by any other means, from the place of construction to the location or subsequent locations or placement area and designated to be used with or without a permanent foundation and connected to utilities for year-round occupancy. The term shall include: (1) units containing parts that may be folded, collapsed, or telescoped when being towed or transported and that may be expanded to provide additional cubic capacity, and (2) units composed of two or more sections designed to be joined into one integral unit capable of again being separated for repeated towing or transporting. The term shall include units designated to be used for residential, commercial, educational, or industrial purposes, excluding, however, recreational vehicles. Such units manufactured after June 15, 1976 must be certified and labeled in accordance with the Federal Manufactured Home Construction and Safety Standard. (42 U.S.C. SS 5401- 5426)

Permanent Foundation - "*Permanent Foundation*" shall have the same meaning as provided in the Illinois Manufactured Housing and Mobile Home Safety Act, 430 ILCS 11512(i), which states that a "*permanent foundation means a closed perimeter formation consisting of materials such as concrete, mortared concrete block, or mortared brick extending in to the ground below the frost line which shall include, but not necessarily be limited to, cellars, basements, or crawl spaces, but does exclude the use of piers*", and/or the Manufactured Home Quality Assurance Act, 430 ILCS 117/10 which states "*that any such structure resting wholly on a permanent foundation, which is a continuous perimeter foundation of material such as mortared concrete block, mortared brick, or concrete which extends into the ground below the established frost depth and to which the home is secured with foundation bolts at least one-half inch in diameter, spaced at intervals of no more 6 feet and within 1 foot of corners, and embedded at least 7 inches*

*into concrete foundations or 15 inches into block foundations", and/or any current or future State of Illinois accepted definitions.*

#### Article 4 - Exceptions

This ordinance shall apply to all newly installed or placed mobile/manufactured/modular or panelized homes, as well as the replacement of existing mobile/manufactured/modular or panelized homes that are installed or placed on individual lots or tracts in the unincorporated limits of Mercer County, except as follows:

- A. Vehicular units designed as a temporary living quarters for recreational, camping, or travel use which are mounted or drawn by another vehicle.
- B. Recreational Vehicles.
- C. Any areas specially zoned (R-4) mobile home districts as provided by the Mercer County Zoning Ordinance.
- D. Any conditional use areas approved by the Mercer County Zoning Board of Appeals and the Mercer County Board.

Mobile/manufactured/modular or panelized homes existing within the unincorporated limits of Mercer County prior to the adoption of this ordinance may continue in use at the site they occupy on the effective date of this ordinance, but may not be used on or at another site within Mercer County unless they meet the requirements herein.

#### Article 5 - Certification

No mobile/manufactured/modular or panelized home shall be installed, constructed, or otherwise be placed in the unincorporated limits of Mercer County for the purpose of use or occupancy unless in accordance with the following:

- A. All mobile/manufactured/modular or panelized homes shall be installed in accordance with the manufacturer's installation requirements on a State of Illinois accepted and/or approved permanent foundation with wheel, axles and hitch removed.
- B. All mobile/manufactured/modular or panelized homes shall be installed in compliance with all other applicable federal, state, or local statutes, ordinances, rules and regulations.

#### Article 6 - Permits

A permit shall be required for all newly installed mobile/manufactured/modular or panelized home, as well as the replacement of existing mobile/manufactured/modular or panelized homes, intended for use or occupancy and installed.



- A. No mobile/manufactured/modular or panelized home shall be installed, constructed, or otherwise be placed in the unincorporated limits of Mercer County without a building permit.
- B. Prior to installation or construction, an application for a building permit, in the manner and form adopted by the county in the Mercer County Zoning Ordinance, shall first be submitted to the Mercer County Zoning Officer.
- C. Building permits issued pursuant to this ordinance shall be valid for a period of 12 months, following the issuance of such permit.

#### Article 7 - Penalties

In the event a violation of this ordinance occurs, in addition to such other remedies as may be available under existing law, Mercer County may institute an action in equity to prevent, restrain, correct, abate or enjoin use/occupancy of any new or replacement mobile/manufactured/modular or panelized home.

Any person, whether as principal or agent, who violates this ordinance or abets its violation shall, upon conviction thereof, be sentenced to pay a fine in accordance with the current zoning ordinance for which a violation exists, together with costs of prosecution, and all costs, fees, or other expenses or expenditures incurred by Mercer County as a result of the violation. Mercer County may also institute an action to enjoin the use and/or occupancy of any mobile/manufactured/modular or panelized home which does not comply with this ordinance.

Each violation shall constitute a separate offense.

#### Article 8 - Severability

The provisions of this ordinance shall be severable, and if any provision hereof shall be declared unconstitutional, illegal, or invalid, such decision shall not affect the validity of any or the remaining provisions of this ordinance. It is hereby declared as the legislative intent of Mercer County that this ordinance would have been amended as if such unconstitutional, illegal, or invalid provision or provisions had not been included herein.

#### Article 9 - Effective Date

The ordinance shall become effective January 1, 2014 upon its passage and approval as provided by law.

#### Article 10 - Repealer

This ordinance shall replace the current and existing ordinance, effective upon the date above. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

RESOLUTION

AMENDMENT OF THE ZONING REGULATIONS  
WITH RESPECT TO MANUFACTURED HOMES/HOUSING

WHEREAS, the Mercer county Board is empowered pursuant to Illinois Revised Statues, Chapter 34, Section 5-12001, to regulate and restrict the location and use of buildings and structures within Mercer County;

AND WHEREAS, the Mercer County Board feels it is in the best interest of Mercer County to modify and amend the existing regulations limiting the locations of manufactured homes/housing;

AND WHEREAS, proper notice and hearing pursuant to Illinois Revised Statues, Chapter 34, Section 5-12014, regarding text amendments to County Zoning Regulations, has been given;

IT IS THEREFORE, HEREBY RESOLVED by the Mercer County Board that the following text amendment to the current Mercer County Zoning Regulations supersede all earlier regulations relating to manufactured homes/housing, as that term is defined by this newly enacted amendment, and that such new regulations be incorporated into the Mercer county Zoning Ordinance. Such regulations to read as follows:

Section 6.1:~~02~~MANUFACTURED HOME/HOUSING

MANUFACTURED HOUSING IS A GENERAL TERM WHICH DESCRIBES FACTORY-BUILT HOUSING AND AS SUCH CAN BE DIFFERENTIATED FROM STICK-BUILT OR SITE-BUILT HOUSING. THERE ARE TWO BASIC TYPES OF HOUSING WHICH ARE FACTORY-BUILT.

THE FIRST TYPE OF FACTORY-BUILT HOUSING WAS UNTIL 1980 COMMONLY REFERRED TO AS A "MOBILE HOME". THE 1980 HOUSING ACT CHANGED THE TERM "MOBILE HOME" TO "MANUFACTURED HOME" IN ALL FEDERAL LAWS AND REGULATIONS. THIS TYPE OF MANUFACTURED HOUSING IS BUILT TO A SINGLE NATIONAL PERFORMANCE CONSTRUCTION CODE, KNOWN AS THE HUD CODE, AS ADMINISTERED BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. UNDER THESE FEDERAL REGULATIONS, OFFICIALLY KNOWN AS THE MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS, "MANUFACTURED HOME" MEANS A STRUCTURE:

1. TRANSPORTABLE IN ONE OR MORE SECTION.
2. MINIMUM 8 FEET WIDE OR 40 FEET LONG IN THE TRAVELING MODE.
3. MINIMUM 320 SQUARE FEET IN LIVING AREA.
4. BUILT ON A PERMANENT CHASSIS.
5. DESIGNED TO BE USED AS A DWELLING WITH A PERMANENT FOUNDATION.

6. INCLUDES PLUMBING, HEATING, AIR CONDITIONING AND ELECTRICAL SYSTEMS.

A RED LABEL AFFIXED TO THE REAR EXTERIOR IDENTIFIES MANUFACTURED HOMES CONSTRUCTED IN COMPLIANCE TO THE HUD CODE.

THE SECOND TYPE OF FACTORY-BUILT HOUSING IS BUILT TO STATE OR LOCAL CODES. THESE UNITS ARE COMMONLY REFERRED TO AS PANELIZED, PRECUT, MODULAR OR SECTIONAL HOMES. THE ILLINOIS MANUFACTURES HOUSING PROGRAM UTILIZES ONE AND TWO FAMILY DWELLING CODE, BOAC BUILDING CODE, ILLINOIS STATE PLUMBING CODE, ASHRAE ENERGY STANDARDS AND NATIONAL ELECTRIC CODE AS MINIMUM MODULAR COMPLIANCE CODES. A YELLOW SEAL AFFIXED TO THE ELECTRICAL PANEL BOX IDENTIFIES MANUFACTURED HOUSING UNITS CONSTRUCTED IN COMPLIANCE WITH THE ILLINOIS MOBILE HOME AND MANUFACTURE HOUSING SAFETY ACT (IL CODE). FOR ADDITIONAL INFORMATION, SEE MANUFACTURED HOUSING IN ILLINOIS 1984.

GIVEN THESE FEDERAL AND STATE EFFECTIVE RULES AND STANDARDS, MANUFACTURED HOMES/HOUSING IN UNINCORPORATED MERCER COUNTY SHALL BE REGULATED AS FOLLOWS:

1. MANUFACTURED HOMES CONSTRUCTED IN COMPLIANCE TO NATIONAL MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS (HUD CODE) MAY BE LOCATED IN:
  - A. ZONED R-4 MOBILE HOME PARK DISTRICTS IF SUCH MANUFACTURED HOME HAS A BUILDING PERMIT. MINIMUM LIVING AREA IS 600 SQUARE FEET (SECTION 6.6 BULK REQUIREMENTS) OR AS PER MOBILE HOME PARK RESTRICTIVE COVENANTS, IS APPLICABLE.
  - B. ZONED R-3 SUMMER HOME DISTRICTS FOR SEASONAL OCCUPANCY WITH INDIVIDUAL BUILDING PERMITS. MINIMUM LIVING AREA IS 600 SQUARE FEET (SECTION 6.6 BULK REQUIREMENTS) OR AS PER SUMMER HOME DISTRICT RESTRICTIVE COVENANTS.
  - C. IN ZONED AG-1 AGRICULTURE DISTRICTS AS FARM DWELLINGS ONLY WITH INDIVIDUAL ZONING CONDITIONAL USE PERMITS. MINIMUM LIVING AREA IS 825 SQUARE FEET (SECTION 6.6 BULK REQUIREMENTS).

- D. IN ZONED AG-1 AGRICULTURE DISTRICTS AND R-1, R-2, R-3 RESIDENTIAL DISTRICTS (UNLESS EXCLUDED BY DEED RESTRICTIONS/RESTRICTIVE COVENANTS) FOR TEMPORARY OCCUPANCY

BY APPLICANT(S) ONLY BASED ON REASONS OF HARDSHIP WITH INDIVIDUAL ZONING CONDITIONAL USE PERMITS. MINIMUM LIVING AREA IS 825 SQUARE FEET (SECTION 6.6 BULK REQUIREMENTS).

- E. IN ZONED AG-1 AGRICULTURE DISTRICTS ON INDIVIDUAL (NOT INCLUDED IN A PLATTED SUBDIVISION) LOTS OF RECORD PRIOR TO NOVEMBER 9, 1984 OR ZONED R-1 RESIDENTIAL DISTRICTS ON INDIVIDUAL (NOT INCLUDED IN A PLATTED SUBDIVISION) WITH A BUILDING PERMIT PROVIDING THAT THE MANUFACTURED HOME HAS A MINIMUM WIDTH OF 24 FEET, MINIMUM LIVING AREA OF 825 SQUARE FEET AND A FULL PERIMETER CONCRETE OR CONCRETE BLOCK FOUNDATION CONSTRUCTED ON A FROST PROTECTED FOOTING. SINGLE OR DOUBLE WIDE MANUFACTURED HOMES LOCATED ON AG-1 AGRICULTURE DISTRICT LOTS WITH ZONING AND/OR BUILDING PERMITS ISSUED WITHOUT RESTRICTIONS ARE INCLUDED IN THIS CATEGORY. SAME MAY BE REPLACED WITH A DOUBLE WIDE (MINIMUM WIDTH 24 FEET) HUD APPROVED MANUFACTURED HOME WITH MINIMUM LIVING AREA OF 825 SQUARE FEET ON FULL PERIMETER CONCRETE OR CONCRETE BLOCK FOUNDATION CONSTRUCTED ON FROST PROTECTED FOOTING.

- 2. MANUFACTURED HOMES CONSTRUCTED IN COMPLIANCE WITH THE ILLINOIS' MOBILE AND MANUFACTURED HOUSING SAFETY ACT (IL CODE) MAY BE LOCATED IN:

- A. ZONED AG-1 AGRICULTURE DISTRICTS AS FARM DWELLINGS WITH ZONING PERMITS.

- B. ZONED AG-1 AGRICULTURE DISTRICTS ON INDIVIDUAL OR PLATTED SUBDIVISION LOTS OF RECORD PRIOR TO NOVEMBER 9, 1984 (UNLESS EXCLUDED BY DEED RESTRICTIONS/SUBDIVISION COVENANTS) WITH A BUILDING PERMIT. MINIMUM WIDTH IS 24 FEET AND MINIMUM LIVING AREA IS 825 SQUARE FEET (SECTION 6.6 BULK REQUIREMENTS) OR AS PER DEED RESTRICTIONS/SUBDIVISION COVENANTS.

- C. ZONED R-1, R-2 AND R-4 RESIDENTIAL DISTRICTS (UNLESS EXCLUDED BY DEED RESTRICTIONS/SUBDIVISION

COVENANTS) WITH A BUILDING PERMIT. MINIMUM WIDTH IS 24 FEET AND MINIMUM LIVING AREA IS 825 SQUARE FEET (SECTION 6.6 BULK REQUIREMENTS) OR AS PER DEED RESTRICTIONS/SUBDIVISION COVENANTS.

3. MANUFACTURED HOMES/HOUSING NOT CONSTRUCTED IN COMPLIANCE TO THE HUD CODE OR IL CODE SHALL NOT BE PERMITTED TO LOCATE IN ANY ZONING DISTRICT IN UNINCORPORATED MERCER COUNTY.

#### Section 6.2: CONDITIONAL USES

As explained in Section 15.7. Page 76

#### Section 6.3: TEMPORARY CONDITIONAL USES

The following uses may be permitted by a temporary special use permit valid for ten days or less to the applicant, subject to the review and approval of the application by the Zoning Officer.

1. Carnival, circus
2. Festivals

In determining whether a temporary special use permit shall be granted, The County Board shall give consideration to the health, safety, morals, and comfort of area residents, any adverse impact on land uses, possibility of traffic congestion, harm to public roads, erosion of adjacent property and threat to any source of water supply. Conditions and restrictions as determined necessary to protect the public health, safety, morals, and comfort may be attached to the permit. Other County Officials may be asked to review the application and submit recommendation in establishing conditions and restrictions.

#### Section 6.4: NON-CONFORMING BUILDINGS, STRUCTURES AND USES

It is necessary and consistent with the establishment of the zoning districts that non-conforming uses, buildings, and structures which substantially and adversely affect the orderly development and taxable value of other property in the district be regulated.

Any non-conforming use, building or structure which existed lawfully at the time of the adoption of this Resolution and which remains non-conforming, and any use, building, or structure which shall become non-conforming upon the adoption of this Resolution or of any subsequent amendments thereto, may be continued subject to the regulations which follow:

6.4:01: Buildings and Structures.

- a. Ordinary repairs and alterations may be made to a non-conforming building or structure, provided that no structural alterations shall be made in or to a building or structure, all or substantially all of which is designed or intended for a use not permitted in the district in which it is located. For the purpose of this section, repairs shall include the replacement of storage tanks, where the safety of operation of the installation requires such replacement, and other replacements of or substitutions for machinery or equipment not involving structural alterations to - the building or structure.
- b. A non-conforming building which is non-conforming as to bulk, all or substantially all of which is designed or intended for a use not permitted in the district in which it is located, shall not be added to or enlarged in any manner unless such additions and enlargements thereto are made to conform to all the regulations of the district in which it is located.
- c. Any building or structure which does not conform to all of the regulations of the district in which it is located shall not be moved in whole or in part to any other location on the lot unless every portion of such moved structure, and the use thereof, are made to conform to all the regulations of the district in which it is located.
- d. A building or structure, excluding existing non-conforming residential dwellings, all or substantially all of which is designed or intended for a use which is not permitted in the district in which it is located, and which is destroyed or damaged by fire or other casualty or act of God to the extent that the cost of restoration to the condition in which it was before the occurrence shall exceed 50 percent of the cost of restoration of the entire building new, shall not be restored and the use thereof shall conform to all the regulations of the district in which it is located. In the event such damage or destructions is less than 50 percent of the cost of restoration of the entire building new, no repairs or reconstruction shall be made unless such restoration is started within one year from date of the partial destruction and is diligently prosecuted to completion.
- e. A building, structure or portion thereof, all or substantially all of which is not permitted in the district in which it is located and which is or hereafter becomes vacant and remains unoccupied or is not used for a continuous period of 12 months, shall not thereafter be occupied or used except by a use which conforms to the use regulations of the district in which it is located.
- f. The non-conforming use of part of a building or structure, all or substantially all of which is designed or intended for

a use not permitted in the district in which it is located, may be extended throughout the building or structure in which said use is presently located, but no changes or structural alterations shall be made unless such changes or structural alterations, and the use thereof, conform to all the regulations of the district in which the building or structure is located.

- g. The non-conforming use of a building or structure, all or substantially all of which is designed or intended for a use not permitted in the district in which it is located may be changed to a use permitted in the same district.

#### 6.4:02: Use of Building

The lawfully existing non-conforming uses of part or all of a building or structure, all or substantially all of which building or structure is designed or intended for a use which is permitted in the district in which it is located, may be continued subject to the following provisions.

- a. The non-conforming use of part of a building or structure, all or substantially all of which building or structure is designed or intended for a use permitted in the district in which it is located, may be expanded or extended into any other portion of such building or structure, provided that such use shall not be expanded or extended into any addition or enlargement of such building or structure which addition or enlargement was erected after the effective date of this Resolution.
- b. If a non-conforming use of a building or structure, all or substantially all of which building or structure is designed or intended for a use permitted in the district in which it is located, is discontinued for a period of 12 consecutive months, it shall not be renewed; and any subsequent use of the building or structure shall conform to the use regulations of the district in which the premises are located.
- c. Non-conforming use shall not be changed to another non-conforming use when such non-conforming use is located in a building or structure all or substantially all of which building or structure is designed or intended for a permitted use.

#### 6.4:03: Use of Land.

The non-conforming use of land not involving a structure or building, or in connection with which any building or structure there on is incidental or accessory to the principal use of the land, may be continued subject to the following provisions:

- a. A non-conforming use of land shall not be expanded or extended beyond the area directly involved in the non-conforming use existing at the time it became non-conforming; nor shall it be relocated to another equivalent area within the lot or parcel nor shall it be increased in intensity of use.
- b. If the non-conforming use of land is discontinued for a period of 12 consecutive months, it shall not thereafter be renewed, and any subsequent use of the land shall conform to the regulations of the district in which the land is located.
- c. The non-conforming use of land shall not be changed to any other use except to a use permitted in the district in which the land is located.

6.4:04: Existing Lots

Any lot privately owned, which ownership was of record at the time of adoption of this Resolution, that does not meet the requirements of this Resolution as to area and lot width may be utilized for single-family residence purposes, provided it qualifies under all other regulations.

This solution shall not be interpreted to reduce the buildable width of a corner lot, or a corner and adjoining lot in a single ownership, subdivided and recorded by law at the time of the passage of this Resolution, to less than 30 feet.

Section 6.5: ACCESSORY USES AND STRUCTURES

1. Accessory uses shall be compatible with the principal use and shall not be established prior to the establishment of the principal use.
2. Accessory buildings shall be a minimum of 10 feet from the nearest wall of the principal building and shall conform to all bulk requirements for the specific district except that accessory buildings may be constructed a minimum of 10 feet from the rear property line.
3. Accessory buildings shall not exceed 20 feet in height measured from grade, as herein defined, to roof peak of building.
4. Solid fences in front yards exceeding 2'-0" in height shall meet front yard setback regulations for that district. Fences in side and rear yards may be constructed up to the property lines.

Section 6.6: BULK REQUIREMENTS

All new buildings shall conform to the building regulations established herein for the district in which each building shall be located. Further, no existing building shall be enlarged, reconstructed structurally altered, converted or relocated in such a manner as to conflict or to further conflict with the bulk requirements of this Resolution for the district in which such buildings shall be located.



Minimum bulk requirements in feet for lot size and width; front, side, and rear yard setback; ground floor living maximum lot coverage area as follows:

District	Lot	Lot Width (Feet)	Set Backs			Height (Stories)	Ground	
	Size (Sq. Feet)		Front	Side	Rear		Floor Area/Dwelling	Lot Coverage
AG-1	653,400 (15 acre)	150	40	10	20	35' 2.5	825	20%
AG-2	15,000	100	40	10	20	50'	600	80%
R-1	43,560 (1 acre)	150	40	10	20	35' 2.5	825	20%
R-2	15,000	100	30	10	20	50' 4	600	30%
R-3	10,000	70	30	7	20	35' 2.5	600	30%
R-4	2,100	25	10	10 (1 Side)	5	50' 2.5	600	45%
C-1	10,000	100	40	10	10	50'	600	80%
I-1	15,000	100	40	10	10	50'	600	80%

Additional bulk requirements:

6.6:01: No building, structure, nor solid fence exceeding 2' -0" in height shall be erected or structurally altered so that any part thereof is nearer than 100 feet to the centerline of a State or Federal Aid Highway, or County Highway, or nearer than 75 to the centerline of any Township or Road District Highway. If there is conflict between setback regulations and the front yard regulations, the setback regulations shall govern.

6.6:02: The regulations shall not be interpreted to reduce the buildable width or depth of a lot in single ownership subdivided and recorded by a law at the time of the passage of this Resolution to less than 35 feet. In locations where the building line restrictions set forth herein will create an undue hardship or in locations wherein the majority of existing buildings are not in conformity with these restrictions, appeals may be made for a variation in which the setback regulations may be modified.

6.6:03: On corner lots where a lot is adjoined by streets on two or more sides, each side adjoined by a street shall be considered a front yard for purposes of setback requirements.

#### Section 6.7: EXCEPTIONS

For the purpose of this Resolution the following shall not be considered as obstruction when located in the yards indicated.

6.7:01 In Any Yards: Chimney's, overhanging roof eaves, terraces, awnings, and canopies adjoining the principal building, if they do not exceed ten percent of the depth of the yard, telephone booths; flagpoles, and solid fences or masonry walls not exceeding six feet in height on residential lots having an area of at least one acre and 180 feet of frontage. However, on a corner lot, no obstruction higher than 18 inches above curb level, as established by connecting lines between any two points on the converging curbs or "curb lines", shall be located in any portion of a required front or side yard situated within 20 feet of the lot corner formed by the intersection of any two street lines. Front yard requirements do not apply:

\* To bay windows or balconies occupying in the aggregate not more than one third of the front wall, or projecting 3 feet into the yard or overhanging gutters projecting 3 feet into the yard.

\* To fuel, air and water pumps in conjunction with automobile service stations, provided they shall be set back at least 25 feet from the front lot line.

\*Fences, plantings, or walls less than 5 feet above the average natural grade or that may be viewed through, and chimneys, leaders, sills, pilaster, uncovered porches, plantings, or similar features not over 3 feet high above the average finished grade and 5 feet distance from every lot line.

\* In AG-1 districts temporary road side stands are permitted.

\* In any district where the average depth of 2 or more existing front yards on lots within 100 feet of the lot in question and within the same block front is less or greater than the least front yard depth prescribed, front yards may be varied. The depth of the front yard on such lot shall not be less than the average depth of said existing front yards or the average depth of the 2 lots immediately adjoining or, in the case of a corner lot, the depth of the front yard on the lot immediately adjoining; provided, however, that the depth of a front yard on a lot in any "R" district shall be at least 10 feet.

6.7:02: In Side Yards: Open accessory off-street parking spaces, except in a side yard abutting a street.

Along any district boundary line, any abutting side yard on a lot in the less restricted District shall have at least width equal to that required in the more restrictive District. Where a lot in an "I" District abuts a lot in an "R" District, the side yard shall be increased by 3 feet for each story that the building proposed on such lot exceeds the height limit of the "R" District.

The following projections or structures may be permitted in side yards:

Accessory buildings or structures subject to the provisions contained elsewhere in this Resolution.

Fences, planting, or walls not over 7 feet above the average natural grade or that may be viewed through.

Fire escapes, bays and balconies projecting 3 feet or less into the yard. The sum of the lengths of such projection shall not exceed one-third of the length of the wall of the main building.

Chimneys, flues, belt courses, leaders, sills, pilasters, and lintels, ornamental features, cornices, gutters and the like into or over a required side yard not more than 1-112 feet.

Terraces, steps, uncovered porches, stoops or similar features, not higher than the elevation of the ground story of the building and distant 3 feet from a side lot line.

6.7:03: In Rear Yards: Enclosed accessory off-street parking spaces subject to the setback provisions hereinafter set forth; open accessory sheds, tool rooms, or other similar accessory buildings; recreational and laundry-drying equipment; arbors and trellises, open-type fences not to exceed eight feet in height, provided that the ratio of solid material to open space on the surface of such fences shall not exceed 50 percent; balconies limited to 15 percent of the yard area; breezeways; and porches. Further, the aggregate ground floor area of all accessory buildings located in a required rear yard shall not exceed 20 percent of the area of such rear yard. Aside yard which adjoins a street shall be considered as a front yard.

The following projects or structures may be permitted in rear yards:

\*Accessory buildings or structures subject to the provisions contained elsewhere in this Resolution.

\*Fences, or walls, not over 7 feet above the average natural grade or that may be viewed through.

\*Fire escapes, bays, and balconies projecting 3 feet or less into the yard. The sum of the lengths of such projects shall not exceed 'h of the width of the rear wall.

\*Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, and the like, into or over a required rear yard not more than 1- 112 feet.

\*Terraces, steps, uncovered porches, or similar features not more than 10 feet into a required rear yard, nor closer than 6 feet of any alley or within 10 feet of a rear lot line, not any alley lot line.

## Section 6.8: SUPPLEMENTAL YARD REQUIREMENTS

6.8:01 When 40 percent or more of the frontage on the same side of the street is improved with buildings that have a front yard that is greater or less in distance than the required front yard, a building may project to the average front yard so established.

6.8:02 Whenever a lot of record has an average width that is 20 or more percent less than the minimum average width required in the district in which it is located, the width of the side yards may be reduced to 10 percent of the average width of the lot, but no side yard shall be less than 3 feet in width unless authorized by the Board of Appeals.

## Section 6.9: OFF-STREET PARKING AND LOADING

6.9:01: Vehicle Parking: No building or structure shall be erected or altered or land used for any purpose which will cause customers, employees, or residents to park their vehicles of transportation on the road and highway right-of-way. Space for parking such vehicles shall be provided and maintained on the same lot or tract of land. Parking spaces shall be a minimum of 20' long and 10' wide.

6.9:02: Off-Street Parking Requirements: Facilities shall be provided for the parking of private passenger automobiles and trucks of occupants, patrons, or employees of the principal use served using the following guidelines: gravel or pavement

- a. Single and multiple family dwellings - 2 spaces for each family dwelling.
- b. Hotels, motels, boarding houses, and other short and long-term lodging- 1 space per bedroom and 1 space for every 2 employees.
- c. Nursing, convalescent, and retirement homes - 1 space for every 3 bedrooms. (Subject to increase if residents are projected to have greater parking needs.)
- d. Retail sales and service stores under 2,000 square feet gross floor area - parking lot size equal to the gross floor area with 10 spaces minimum.
- e. Retail sales and service store over 2,000 square feet gross floor area - parking lot size 200 percent of gross floor area.
- f. Manufacturing and Warehousing - 1 space for every 2 employees on the maximum work shift with 10 spaces minimum.
- g. Churches, schools - 1 space for every 5 seats in the auditorium and 1 space per staff member.

h. Restaurants, taverns, night clubs, and meeting halls - 1 space for every 3 seating spaces.

i. Home business - 2 spaces minimum.

6.9:03: Additional Parking Requirements: Every parcel of land hereafter used for public or employee parking shall be developed and maintained in accordance with the following requirements:

a. No part of any parking area shall be closer than 5 feet to any established road right-of-way line or property line. If a parking lot adjoins a "R" District or any residence, no part of the parking area shall be closer than 15 feet to the property line.

b. All required off-street parking areas shall be surfaced in a Manner approved by the County superintendent of Highways, so as to provide a durable and dustless surface. All commercial or more intensive land uses will have a paved parking area with material similar to the adjacent County road surface and constructed to meet the expected traffic. They shall be graded and drained to dispose of all surface water accumulated within the area, and shall be arranged and marked to provide for orderly and safe loading or unloading and parking and storage of self-propelled vehicles. All additional storm water runoff created because of the parking lot will be detained on premises in a manner acceptable to the County Superintendent of Highways.

c. Off-Street Loading Requirements: In any District in connection used for non-farm and non-residential purpose, there shall be provided and maintained on the same lot as the principal use at least 1 off-street loading space for every 10,000 square feet or part thereof of gross floor area. Any proposed loading space shall be a minimum of 55' long x 12' wide with additional area provided for truck maneuvering.

#### Section 6.10: SIGNS

No sign will be erected that will obstruct scenic views along any roadway or the safe view at any intersection, private drive, field entrance or other point of ingress or egress. Signs along State or Federal Highways must meet Illinois Department of Transportation regulations as well as the requirements described herein.

6.10:01: Permitted Signs - all districts: Any Federal, State, County or local highway directional sign shall be permitted in accordance with the appropriate specifications of Mercer County.

6.10:02: Permitted Signs - AG-I District: The following non- flashing non-illuminated signs are allowed:

- a. Signs advertising the sale or rental of the property on which the sign is located, or the sale of agricultural products grown or produced on the property, however, no such signs shall exceed 20 square feet in area. No sign shall be placed closer than 10 feet to the property line. Signs for home business shall be allowed only after a conditional use is granted and shall follow all guidelines pertaining to the district the property is assigned
- b. Church bulletin boards, which shall not exceed 24 square feet in area per side.

6.10:03: Permitted Signs - Residential Districts: The following non- flashing, illuminated or non-illuminated signs shall be limited to name plates and identification signs.

- a. For one and two family dwellings, there shall be not more than one name plate, not exceeding 2 square feet in area, for each dwelling unit, indicating the name or address of the occupant or a permitted occupation.
- b. For multiple-family dwellings, for apartment hotels and for buildings other than dwellings, a single identification sign not exceeding 12 square feet in area and indicating only the name and address of the building and the name of the management thereof may be displayed.
- c. Temporary signs advertising the sale or rental of the Properties on which the sign is located, or advertising a sale or event not to exceed 10 square feet in area.
- d. Height. No sign shall project higher than one 1 story or 15 Feet above curb level, whichever is lower.
- e. Permitted Signs - Other Districts: Any lighted or unlighted sign, not exceeding 400 square feet in area, that in the opinion of the Zoning Administrator, does not create a traffic hazard or nuisance.

Section 6.11: ONE PRINCIPAL BUILDING PER LOT

In all zoning districts every structure hereafter erected or structurally altered shall be located on a lot, and in no case shall there be more than one principal building on one lot, except in the case of a temporary mobile home by conditional use permit.

Section 6.12: SUBDIVIDING OF LAND

As per Illinois Revised Statutes, Chapter 109 Plat Act.

Section 6.13: SANITARY SEWER AND WATER SUPPLY

Sanitary sewer, sewage treatment systems, septic tanks, public water systems, and private wells shall be installed to meet Illinois Department of Public Health and Illinois Environmental Protection Agency regulations.

Section 6.14: CONFINEMENT OPERATIONS

Confinement operations used for the raising and production of cattle, Sheep, swine, poultry, etc. shall be required to locate a minimum of 1320 feet from the nearest dwelling unit.

Section 6.15: SWIMMING POOLS

Swimming pools are allowed in any district, provided that they meet setback requirements and are completely surrounded by a child-proof barrier. This barrier, a fence or a wall, must be at least 5 feet in height, but not exceeding a height of 7 feet, and of such construction that a child may not reach the pool from any adjacent property without opening a gate or scaling a wall or fence. The fence must have a self-latching gate in normal operating condition. The latch must be at least four feet from ground level. The gate should be self-closing and latching. All doors from houses and garages must also be self-closing and self-latching. Holes in the fence should be four inches or less.

Section 6.16: HEIGHT LIMITS

The following structures or parts thereof are hereby exempt from the height limitations set forth in the Zoning Districts:

- \*Agricultural buildings including barns, silos, and windmills.
- \*Chimneys, smokestacks, penthouses, spires, flagpoles, ventilators, skylights, derricks, conveyors, and cooling towers.
- \*Radio and television antennae & towers, observation towers, and power transmission towers.
- \*Water tanks and standpipes.
- \*Other similar and necessary mechanical appurtenances pertaining to and necessary to the permitted uses of the Districts in which they are located, provided that they are not used for human occupancy.
- \*Churches, schools, hospitals, sanatoriums, and other public and semi-public buildings.
- \*Commercial radio, television, observation, power transmission and wireless communication towers shall be at least the height of the tower or antennae from the nearest structure of any kind.

## ZONING DISTRICTS

### ARTICLE VII

#### AG-I AGRICULTURE DISTRICT

##### Section 7.1 PREAMBLE

In an historical and economic context, prime agricultural land and the uses accessory thereto have been one of the principal resources of Mercer County. The intent of this Resolution in establishing an agricultural district is to preserve maximum freedom of operation for bona fide agricultural purposes and to protect such use from encroachment by other uses which are permitted in this district or other uses, such as extraction of minerals which may be permitted only after issuance of a special use permit under conditions which effectuate the intent of the regulations for this District.

The Agricultural District is established as a zone in which agriculture and certain related uses are encouraged as the principle uses of land. The specific intent is to facilitate the proper use of lands best suited to Agriculture through preventing the admixture of urban and rural uses which creates incompatibility and conflict, and contributes to the premature termination of agricultural pursuits. This zone is also designed to prevent health hazards brought about by the illogical placement of inappropriately high residential densities in the other- wise open countryside.

##### Section 7.2 PERMITTED USES

1. Agriculture, as defined in Article IV.
2. Farm dwelling.
3. Accessory uses and buildings.
4. Home occupation, as defined in Article IV.
5. Public open spaces such as parks, playgrounds, forest preserves, wild life preserves, etc. without illumination.

##### Section 7.3 CONDITIONAL USES

1. Cemetery
2. Church
3. Government military reservation
4. Home business, as defined in Article IV
5. Public open spaces with illumination such as fairgrounds, Baseball field, tennis courts, etc.
6. Private open spaces with or without illumination such as country clubs, golf course, trap and skeet ranges, etc.
7. Private landing strip
8. Sewage disposal sites and sewage sludge treatment plants
9. Fertilizer disposal sites and sewage sludge treatment plants



## ZONING DISTRICTS

10. Agri-tourism
11. Trailer coaches or mobile homes for reasons based on hardship Conditions, providing the following requirements are met:
  - a. Placed upon permanent foundation.
  - b. Fastened with tie-down bands.
  - c. Having hitch removed.
  - d. Being not less than 600 square feet in size.
  - e. Used as a dwelling only by the person(s) designated on the application.
  - f. Removed from the premises when the use of the mobile home as a dwelling by the designated person(s) ceases.

In addition, trailers or mobile homes must meet sewage disposal and water supply regulations.

Conditions of hardship will be at the discretion of the Zoning Board of Appeals and the County Board. Hardships may include but are not limited to economic conditions, health, and family aid.

12. Migrant Labor Camps - Migrant Labor Camps shall be allowed in the AG-I District 1, provided they meet the following criteria:
  - Their occupancy is limited to the period April 15 - November 15.
  - Mobile homes and trailers are subject to all other state and local regulations.
  - Any migrant labor camp composed of mobile homes that are not licensed for four consecutive years shall be dismantled and removed from the premises.

In addition, Migrant Labor Camps shall be subject to all requirements Of the Illinois Migrant Labor Act, Chapter III 1/2, Illinois Revised Statutes.

### Section 7.4. TEMPORARY CONDITIONAL USES

As listed in Section 6.3 (page 37)

### Section 7.5 BULK REQUIREMENTS

As listed in Section 6.6 (page 40)

### Section 7.6 OFF-STREET PARKING AND LOADING

As listed in Section 6.9 (page 44)

### Section 7.7 SIGNS

As listed in Section 6.10 (page 45)

ZONING DISTRICTS

ARTICLE VIII

AG-2 AGRIBUSINESS DISTRICT

Section 8.1 PREAMBLE

The Agribusiness District is established as a zone permitting both agricultural and certain commercial and business uses which are complementary to agriculture and farming operations. The intent of this article is to allow agribusiness and agriculture uses to be mutually accessible. To accomplish this, the Agribusiness District permits siting of the complementary businesses within the service or trace area in locations where traffic congestion, land use incompatibility, and other disruptive tendencies are minimized.

Section 8.2 PERMITTED USES

1. Farm implements and parts sales.
2. Grain and livestock truck transport.
3. Kennels
4. Livestock auction barns and yards.
5. Seed and Feed Sales.
6. Stable, public.
7. Veterinary clinics and businesses providing animal husbandry services and products.
8. Accessory uses and structures.
9. Farm dwelling

Section 8.3 CONDITIONAL USES

1. Feed mills and grain elevators.
2. Livestock confinement or feedlot operations where concentrated livestock production is the primary purpose and use.
3. Logging and saw mills.
4. Slaughter houses and rendering works.
5. Fertilizer, herbicide, and insecticide sales and application services. .
6. Agri-tourism

Section 8.4 BULK REQUIREMENTS

As listed in Section 6.6 (page 40)

Section 8.5 OFF-STREET PARKING AND LOADING

As listed in Section 6.9 (page 44)

ZONING DISTRICTS

Section 8.6 SIGNS

As listed in Section 6.10 (page 45)

ZONING DISTRICTS

ARTICLE IX

R-1 SINGLE-FAMILY RESIDENCE

Section 9.1 PREAMBLE

The R-1 District is intended and designed for low density development, primarily individual rural residential lots.

Section 9.2 PERMITTED USES

1. Single family dwellings.
2. Accessory uses and structures as listed in Section 6.5.
3. Home occupations.
4. Schools, public and private, not operated for profit.
5. Churches, chapels, temples, and synagogues.
6. Public open spaces, such as parks, playgrounds, forest preserves, wildlife preserves, etc. without illumination.
7. Permitted use listed under AG-1 is lot size is 1 acre or more.

Section 9.3 CONDITIONAL USES

1. Home business.
2. Public open spaces with illumination such as baseball and football Fields, tennis courts, swimming pools, etc.
3. Kennels.
4. Public works such as sewage treatment plants, water works, pumping stations and filtration plants, fire and police stations, etc.
5. Additional conditional use listed under AG-1 if lot size is one acre or more.

Section 9.4 BULK REQUIREMENTS

As listed in Section 6.6 (page 40)

Section 9.5 OFF-STREET PARKING AND LOADING

As listed in Section 6.9 (page 44)

Section 9.6 SIGNS

As listed in Section 6.10 (page 45)

ZONING DISTRICTS

ARTICLE X

R-2 GENERAL RESIDENCE DISTRICT

Section 10.1 PREAMBLE

The R-2 district is intended and designed for low to medium density development. High density development would be permitted when location, site design, surrounding land uses, or other factors are conducive to such development.

Section 10.2 PERMITTED USES

1. Those uses permitted in the R-1 district.
2. Duplexes.
3. Apartments and town houses, not exceeding six units per acre.
4. Condominiums, not exceeding six units per acre.

Section 10.3 CONDITIONAL USES

1. Those conditional uses listed in the R-1 district.
2. Multiple-family developments exceeding six units per acre.
3. Planned Unit Developments.
4. Group residence child care facility for the detention and rehabilitation of juveniles.
5. Group residence rehabilitation and workshop centers for the mentally and physically handicapped to include drug and alcohol abuse rehabilitation.
6. Nursing Home.
7. Orphanage.
8. Sanitarium.

Section 10.4 BULK REQUIREMENTS

As listed above and in Section 6.6 (page 40)

Section 10.5 OFF-STREET PARKING AND LOADING

As listed in Section 6.9 (page 44)

Section 10.6 SIGNS

As listed in Section 6.10 (page 45)

ZONING DISTRICTS

ARTICLE XI

R-3 SEASONAL HOME DISTRICT

Section 11.1 PREAMBLE

The R-3 District is designed for recreational occupancy and use. Recreational occupancy include uses such as but not limited to boating, fishing, swimming, camping, skiing, hunting, snowmobiling and other leisure or vacation type activities. Recreational occupancy and use will be permitted when location, site design, surrounding land uses, or other factors are conducive to such occupancy and use.

Section 11.2 PERMITTED USES

1. Summer homes, resorts, lodges, and cabins, with ownership in Individual or multiple units, but not to be used as permanent All-year dwelling accommodations, except that any resort, lodge, or group of cabins consisting of more than three units in one ownership may provide permanent all-year residence for maintenance purposes. Meals and conveniences, merchandise and services may be provided for lodgers, but not for the general public.
2. Accessory Uses and Structures.
3. Home Occupations.
4. Public Open Spaces such as parks, playgrounds, forest preserves, wildlife preserves, etc. without illumination.

Section 11.3 CONDITIONAL USES

1. Campgrounds used for seasonal recreation and living purposes. The tracts may have located on them structures of a seasonal, temporary, or movable nature, such as a tent, travel trailer (a vehicle identified by the manufacturer as a travel trailer, built on a chassis 8 feet or less wide and designed to move on the highways), camping trailer (a canvas folding structure built on a chassis with wheels and designed to move on the highways), but not mobile homes. Provided that the occupancy of any of the foregoing shall not be for a period of more than 30 days in any calendar year and the occupancy of any of the foregoing for a period of more than 30 days in any calendar year shall be a violation of the special use herein permitted. One all year residence for property owner and/or manager is permitted as an accessory use.
2. Mobile Homes and Trailers.

Section 11.4 BULK REQUIREMENTS

As listed in Section 6.6 (page 40)

ZONING DISTRICTS

Section 11.5 OFF-STREET PARKING AND LOADING

As listed in Section 6.9 (page 44)

Section 11.6 SIGNS

As listed in Section 6.10 (page 45)

ZONING DISTRICTS

ARTICLE XII

R-4 MOBILE HOME DISTRICT

Section 12.1 PREAMBLE

The R-4 District is intended and designed for high density development. All development within this district shall meet or exceed requirements established by the Illinois Department of Public Health.

Section 12.2 PERMITTED USES

1. Trailer and Mobile Home Courts
2. Accessory uses and structures
3. Home occupations

Section 12.3 BULK REQUIREMENTS

As listed in Section 6.6 (page 40)

Section 12.4 OFF-STREET PARKING AND LOADING

As listed in Section 6.9 (page 44)

Section 12.5 SIGNS

As listed in Section 6.10 (page 45)



ZONING DISTRICTS

ARTICLE XIII

C-1 GENERAL COMMERCIAL DISTRICT

Section 13.1 PREAMBLE

The C-1 District is intended and designed for businesses, professions, and occupations which provide goods and services to the general public. Business which exhibit unique characteristics which may create an adverse Impact on adjoining property are listed as conditional uses.

Any previously adopted C-1, Local Commercial District, and C-2 General Commercial District, will be automatically included in this district after the adoption of this Resolution.

Section 13.2 PERMITTED USES

Any business, profession, and occupation engaged in providing goods and services except those listed as conditional uses.

Section 13.3 CONDITIONAL USES

1. Airport, commercial
2. Amusement parks, outdoor theaters
3. Concrete ready-mix plant
4. Hospital
5. Laboratories, research
6. Manufacturing or treatment of products clearly incidental to the conduct of a retail business.
7. Regional shopping centers
8. Truck terminals
9. Wholesale warehouses
10. Junk, salvage or scrap metal yard where the premises upon which such activities are conducted are wholly enclosed within a building and/or wall, or solid fence not less than 6 feet in height, completely obscuring activity.

Section 13.4 BULK REQUIREMENTS

As listed in Section 6.6 (page 40)

Section 13.5 OFF-STREET PARKING AND LOADING

As listed in Section 6.9 (page 44)

Section 13.6 SIGNS

As listed in Section 6.10 (page 45)

ZONING DISTRICTS

ARTICLE XIV

1-1 GENERAL INDUSTRIAL DISTRICT

Section 14.1 PREAMBLE

The 1-1 District is intended and designed to provide areas of the County for industry and a few miscellaneous uses require special standards and regulations for noise, smoke, dust, odor, toxic or noxious matter, glare, heat for protection of Mercer County residents.

Any previously adopted 1-1, Light Industrial District, and 1-2, Heavy Industrial District, will be automatically included in this district after the adoption of this Resolution.

Section 14.2 PERMITTED USES

Any manufacturing, fabricating, processing, packing, and storage uses provided same conform to the standards and requirements as listed in the appendix, except those listed as conditional uses.

Section 14.3 CONDITIONAL USES

1. Heavy manufacturing
2. Manufacturing and/or storage of acids, chemicals, fertilizers
3. Mining and extraction of minerals requiring a fixed plant (i.e. quarry)
4. Slaughter houses and rendering works
5. Prison and correctional facilities

Section 14.4 BULK REQUIREMENTS

As listed in Section 6.6 (page 40)

Section 14.5 OFF-STREET PARKING AND LOADING

As listed in Section 6.9 (page 44)

Section 14.6 SIGNS

As listed in Section 6.10 (page 45)

ZONING DISTRICTS

Section 14.7 PERFORMANCE STANDARDS AND REGULATIONS 1-1 DISTRICT

It is not the intent of Mercer County to regulate the type of industrial land use, rather the performance, or -- intensity, of the proposed use. The standards here mentioned are minimum standards needed for compliance. It is the burden of the applicant to insure that the performance standards and regulations are met. A licensed engineer or architect registered in the State of Illinois must certify that the standards will be met prior to the issuance of a zoning certificate.

1. Noise

Any use established in the General Industrial District shall be so operated as to comply with the performance standards governing noise set forth hereinafter for the district in which such use shall be located. No use already established on the effective date of this resolution shall be so altered or modified as to conflict with, or further conflict with, the performance standards governing noise established hereinafter for the district in which such use is located. Objectionable sounds of an intermittent nature shall be controlled so as to not become a nuisance to adjacent use. Sound levels shall be measured with a sound-level meter and associated octave band filter, manufactured in compliance with standards prescribed by the American Standards Association. Measurements shall be made using the flat network of the sound level meter. Impulsive type noises shall be subject to the performance standards hereinafter prescribed provided that such noises shall be capable of being so measured shall be those noises which cause rapid fluctuations.

Noise - 1-1 District. At no point on the boundary of a residential or business district shall the sound intensity level of any individual operation or plant (other than the operation of motor vehicles of other transportation facilities) exceed the decibel levels in the designated octave bands shown on Table 1 below for the districts indicated.

<b>TABLE 1</b>		
<b>MAXIMUM PERMITTED OCTAVE BAND IN SELECTED DISTRICTS</b>		
Octave Band	Maximum Permitted Sound Level (decibels)	
Frequency, c.p.s	Along Residential District Boundaries	Along Commercial District Boundaries
0 to 75	72	79
75 to 150	67	74
150 to 300	59	66
300 to 600	52	59
600 to 1,200	46	53
1,200 to 2,400	40	47
2,400 to 4,800	34	41
Above 4,800	32	39

2. Smoke and Particulate Matter

## ZONING DISTRICTS

Any use established in the General Industrial district shall be so operated as to comply with the performance standards governing smoke and particulate matter set forth hereinafter for the district in which such use shall be located. No use already established on the effective date of this resolution shall be so altered or modified as to conflict with, or further conflict with, the performance standards governing smoke and particulate matter established hereinafter for the district in which such use is located. In addition to the performance standards specified hereinafter, the emission of smoke or particulate matter in such manner or quantity as to endanger or to be determined to the public health, safety, comfort, or welfare is hereby declared to be a public nuisance and shall henceforth be unlawful. For the purpose of grading the density of smoke, the Ringelmann Chart, published and used by the United States Bureau of Mines, shall be employed. The emission of smoke or particulate matter of a density greater than #3 on the Ringelmann chart is prohibited at all times except as otherwise provided hereinafter.

The emission, from all sources within any lot area, of particulate matter containing more than ten percent by weight of particles having a particle diameter larger than 24 microns is prohibited.

Dust and other types of air pollution, borne by the wind from such sources as storage areas, yards, roads, and the like within lot boundaries, shall be kept to a minimum by appropriate landscaping, paving, oiling, fencing, or acceptable means. Emission of particulate matter from such sources in excess of the weight limitations specified hereinafter is prohibited.

- a. The emission of more than sixty smoke units per hour per stack is prohibited, including smoke of a density in excess of Ringelmann #2. However, during three one-hour periods in each 24-hour day, each stack may emit up to 72 smoke units when blowing soot or cleaning fires. Only during fire cleaning periods, however, shall smoke of Ringelmann #3 be permitted, and then for not more than 4 minutes.
- b. The rate of emission of particulate matter from all sources within the boundaries of any lot shall not exceed a net figure of one pound per acre of lot area during anyone hour, after deducting from the gross hourly emission per acre the correction factors set forth in Tables 2, 3, and 4 respectively. Determination of the total net rate of emission of particulate matter within the boundaries of any lot shall be made as follows:
  - (1) Determine the maximum emission in pounds per hour from each source of emission and divide this figure by the number of acres of lot area, thereby obtaining the gross hourly rate of emission in pounds per acre.
  - (2) From each gross hourly rate of emission derived in (1) above, deduct the appropriate correction factor (interpolating as required) for height, velocity, and temperature of emission set forth in Tables 2, 3, and 4, thereby obtaining the net rate of emission in pounds per acre per hour from each source of emission.
  - (3) Add together the individual net rates of emission derived in (2) above, to obtain the total net rate of emission from all sources of emission within the boundaries of the lot. Such total shall not exceed 1 pound per acre during anyone hour.

ZONING DISTRICTS

**TABLE 2  
ALLOWANCE FOR HEIGHT OF EMISSION\***

<u>Height of Emission Above Grade (Feet)</u>	<u>Correction (pounds per hour per acre)</u>
50	0.01
100	0.06
150	0.10
200	0.16
300	0.30
400	0.50

\*Interpolate for values not shown in table.

**TABLE 3  
ALLOWANCE FOR VELOCITY OF EMISSION\***

<u>Exit Velocity (Feet per Second)</u>	<u>Correction (pounds per hour per acre)</u>
0	0.00
20	0.03
40	0.09
60	0.16
80	0.24
100	0.50

\*Interpolate for values not shown in table.

**TABLE 4  
ALLOWANCE FOR TEMPERATURE OF EMISSION\***

<u>Temperature of Emission (Degrees Fahrenheit)</u>	<u>Correction (pounds per hour per acre)</u>
200	0.000
300	0.001
400	0.002
500	0.003
1,000	0.010
1,500	0.040
2,000	0.100

\*Interpolate for values not shown in table.

3. Toxic or Noxious Matter. Any use established in the General Industrial District shall be so operated as to comply with the performance standards governing emissions of toxic or noxious matter set forth hereinafter for the district in which such use shall be located. No use shall for any period of time discharge, across the boundaries of the lot wherein it is located, toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to property of business.
4. Odors. Any use established in the General Industrial District shall be so operated as to comply with the performance standards governing odorous materials, set forth hereinafter for the district in which such use of this ordinance shall be so altered or modified as to conflict odorous materials established hereinafter for the district in which such use is

## ZONING DISTRICTS

located. The emission of odorous matter in such quantities as to produce a nuisance or hazard beyond lot lines is prohibited.

5. Fire or Explosive Materials. Any use established in the General Industrial District shall be so operated as to comply with the performance standards governing fire and explosive hazards set forth hereinafter for the district in which such use shall be located. No use already established on the effective date of this ordinance shall be so altered or modified as to conflict with, or further conflict with, the performance standards governing fire and explosive hazards established hereinafter for the district in which such use is located.

### Fire - 1-1 District

- a) The storage, utilization, or manufacture of materials or products ranging from incombustible to moderate burning, as determined by the Zoning Enforcement Officer, is permitted, subject to compliance with all other performance standards for the 1-1 district
  - b) The storage, utilization, or manufacture of materials, goods or products ranging from free, or active-burning to intense-burning, as determined by the Zoning Enforcement Officer, is permitted subject to compliance with all other performance standards for the 1-1 District, and provided the following conditions are met:
    - (1) Said materials or products shall be stored, utilized, or produced within completely enclosed structure having fire resistive construction.
    - (2) All such structures shall be set back at least 40 feet from lot lines; or, in lieu thereof, all structures shall be protected throughout by an automatic sprinkler system (or carbon dioxide system of equal protection) complying with installation standards prescribed by the National Fire Protection Association.
  - c) Manufacture or processing of materials or products which produce flammable or explosive vapors or gases at ordinary weather temperatures shall not be permitted, except when such materials are used in secondary processes or are required in emergency or stand-by equipment; but their storage for use as power or heating fuels shall be permitted if in conformity with standards prescribed by the National fire Protection Association and with applicable requirements embodied in regulations promulgated by the State of Illinois Department of Public Safety.
6. Vibration. Any use established in the General Industrial District shall be so operated as to comply with the performance standards governing vibration set forth hereinafter for the district in which such use shall be located. No use already established on the effective date of this ordinance shall be so altered or modified as to conflict with, or further conflict with, the performance standards governing vibration established hereinafter for the district in which such use is located. In the 1-1 District, any process or equipment which produces intense earth-shaking vibrations such as are created by heavy drop forges or heavy hydraulic surges shall be set back at least 500 feet from the property boundaries on all sides.

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7. Glare or Heat. Any use established in the General Industrial District shall be so operated as to comply with the performance standards governing glare or heat set forth hereinafter for the district in which such use shall be located. No use already established on the effective date of this resolution shall be so altered or modified as to conflict with, or further conflict with, the performance standards governing glare or heat established hereinafter for the district in which such use is located. Any operation producing intense glare or heat shall be performed within a completely enclosed building in such a manner as not to create a public nuisance or hazard along lot lines.



# ZONING DISTRICTS

## CHAPTER III ADMINISTRATION

ADMINISTRATION

ARTICLE XV

ADMINISTRATION

Section 15.1 ORGANIZATION

The administration of this Resolution is hereby vested in 3 offices of government in Mercer County, Illinois. They are as follows: Zoning Officer, Zoning Board of Appeals, and the Mercer County Board.

Section 15.2 ZONING OFFICER

15.2.01 Appointment of Zoning Officer. The Zoning Officer shall be appointed by the County Board Chair with the advice and consent of the County Board.

15.2.02 Powers and Duties of the Zoning Officer. In the performance of duties the Zoning Officer shall:

- a. Issue all Zoning Certificates and make and maintain records thereof;
- b. Issue all Occupancy Permits and make and maintain records thereof;
- c. Conduct inspection of buildings, structures, and use of land to determine compliance with the terms of this Resolution;
- d. Transmit to the clerk of any city or village copies of all requests for Amendments and Conditional Uses within one and one-half miles of their municipal boundaries for review and recommendation;
- e. Maintain permanent and current records of this Resolution including, but not limited to, all Maps, Amendments, Conditional Uses, Variances, Appeals, and applications therefore, and maintain a public information service relative to all matters arising out of this Resolution;
- f. Forward to the Zoning Board of Appeals all applications for Amendments to this Resolution;
- g. Transmit to the Zoning Board of Appeals applications for Variances from the requirements of this Resolution;
- h. Transmit to the Zoning Board of Appeals and the County Board applications for appeals, Conditional Uses or other matters on which the Zoning Board of Appeals and/or County Board is to act upon;

## ADMINISTRATION

- i. Issue temporary Certificates of Occupancy regulating the erection of buildings or structures and use of land for periods not to exceed 10 for specific purposes such as temporary carnivals, churches, charities, and revival meetings which are not detrimental to the public health, safety, morals, comfort, convenience, or general welfare; provided, however, that said use of operation and any incidental temporary structures or tents are in conformance with all other resolutions and codes of the County;
- j. Initiate, direct, and review, from time to time, a study of the provisions of the Resolution and make reports and recommendations to the Board of Appeals; and
- k. It shall not be the duty of the Zoning Officer to make determinations pertaining to the use of land, buildings and structures in the 1-1 district without a certificate from an architect or mechanical engineer duly licensed by the State of Illinois or from a scientific research laboratory approved by the County Board certifying compliance with the performance standards listed under Section 14.7 as shown in the Appendix of this Resolution.

### Section 15.3 ZONING BOARD OF APPEALS

15.3.01 Creation. The Zoning Board of Appeals of Mercer County as established under the applicable provisions of the Illinois Revised Statutes, is the Board of Appeals referred to in this Resolution. An annual review of all Zoning statutes and practices used in Mercer County will be performed by the Zoning Board of Appeals, and any upgrades in this function will be submitted to the Mercer County Board for appropriate action.

15.3.02 Membership. The Zoning Board of Appeals shall consist of five members appointed by the County Board Chair and confirmed by the members of the County Board. The five members of the first Board of Appeals appointed shall serve terms of one, two, three, four, and five years respectively. Thereafter, as terms expire, each appointment shall be for five years. Vacancies shall be filled by the Chair of the County Board for the unexpired terms only, subject to confirmation by the County Board at its next meeting. The County Board shall have the power to remove any member of the Board of Appeals for cause after a public hearing upon giving ten day's notice thereof. At the time of appointment to the Board of Appeals, not more than one of the members shall be a resident within the limits of anyone township.

## ADMINISTRATION

The Chair of the County Board shall name one of the members of the Board of Appeals as Chair upon appointment, and in case of vacancy shall designate a Chair.

15.3.03 Jurisdiction. The Board of Appeals is hereby vested with the following jurisdiction and authority.

- a. To hear and decide Appeals directed to it by the County Board or form any order, requirement, decision or determination made by the Zoning Officer;
- b. To hear and pass upon Applications for Variances from the terms provided in this Resolution in a manner prescribed and subject to the standards established herein;
- c. To conduct hearings on all Applications for Conditional Uses and report its findings and recommendations to the county Board;
- d. To interpret the provisions of the Resolution and the District Map in the manner provided for herein;
- e. To conduct hearings on all Applications for Amendments to this Resolution and report its findings and recommendations to the County Board;
- f. To receive from the Zoning Officer recommendations as related to the effectiveness of this Resolution and report its conclusions and recommendations to the County Board not less frequently than once a year;
- g. To petition, on its own initiative, the County Board requesting an amendment, supplement, change, or repeal of this Resolution provided that it has first held a public hearing thereon; and
- h. To hear, interpret and decide all matters referred to it or upon which it is required to pass under this Resolution, as prescribed by the applicable provisions of the Illinois Revised State Statutes.

15.3.04 Meetings and Rules. Regular meetings of the Zoning Board of Appeals shall be held at such time and place within the County as the Board of Appeals may determine. Special meetings may be held at the call of the Chair, or as determined by the Board. Such Chair, or in his/her absence, the acting Chair, may administer oaths and compel attendance of witnesses. All meetings of the Board of appeals shall be open to the public. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such

## ADMINISTRATION

facts, and shall also keep records of its examinations and other official actions. Every rule, regulation, every amendment or appeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall immediately be filed in the office of the Board and shall be a public record. Three members of the Board of Appeals shall constitute a quorum and the concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Officer in any matter upon which it is required to pass under this Resolution, or to effect any variation on this Resolution.

15.03.05 Finality of Decisions of the Board of Appeals. All decisions and findings of the Board of Appeals on Appeals, Applications for a Variance, or Applications for a Conditional Use, after a hearing, shall, in all instances, be final administrative decisions and shall be subject to appeal to the County Board as provided in Section 15.9.

### Section 15.4 COUNTY BOARD

15.4.01 Jurisdiction. The Mercer County Board and its Chair shall discharge the following duties under this Resolution.

- a. Appoint the Zoning Officer whose responsibility will be to enforce the provisions of the Ordinance;
- b. Appoint members to the Board of Appeals as provided for in this Resolution and in the Illinois Revised Statutes;
- c. Receive and decide upon all recommendations concerning Amendments, supplements, changes, or repeal of the Zoning Ordinance submitted to them by the Board of Appeals;
- d. Receive and decide upon all recommendations concerning applications for amendments, conditional uses, or temporary conditional uses submitted to them by the Board of Appeals;
- e. To hear and decide Appeals from any order, requirement, decision or determination made by the Board of Appeals;
- f. Receive from the Board of Appeals all recommendations on the effectiveness of this Resolution; and
- g. To decide all matters upon which it is required to pass under this Resolution.

Section 15.5 ZONING CERTIFICATES AND CERTIFICATES OF OCCUPANCY

15.5.01 GENERAL REGULATIONS PERTAINING TO ZONING CERTIFICATES AND CERTIFICATES OF OCCUPANCY.

- a. Applications for Zoning Certificates and Certificates of Occupancy shall be accompanied by evidence indicating that every reasonable provision will be taken to eliminate or minimize gas fumes, odor, dust, smoke, noise, vibration, waste materials, explosive and fire hazards, and other similar hazards or nuisances and said applications shall be approved by the Zoning Officer only in the event that the evidence accompanying the application indicates that the operation of said uses will not be obnoxious or offensive.
- b. Any work or change in use authorized by permit but not substantially started within 12 months shall require a new permit. A permit shall be revoked by the Zoning Officer when found from personal inspection or from competent evidence that the rules or regulations under which it has been issued are being violated.
- c. In the event of denial to issue a Zoning Certificate or Certificate of Occupancy by the Zoning Officer, the applicant shall have the right of appeal to the county Board and/or Board of Appeals in accordance with the provisions as contained in Section 15.9 of the Resolution.
- d. No permit or certificate shall be required for:
  - Routine maintenance or repair of buildings, structures, or equipment, such as repainting or re-roofing or insulating a building;
  - Alterations costing less than one thousand (1,000) dollars to existing buildings, but not including activities which would change the exterior dimensions of the enclosed portion of the existing structure;
  - Construction of a service connection to a municipally owned and operated utility; and
  - Any agricultural uses.

15.5.02 Zoning Certificates. No building or structure shall be constructed, reconstructed, erected, moved in, or altered within the unincorporated portions of Mercer County without first obtaining a Zoning Certificate from the Zoning Officer which indicates that the proposed building or structure complies with all the provisions of this Resolution.

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- 15.5.03 Issuance of Zoning Certificates. Except as hereinafter provided, no permit pertaining to the use of land or buildings shall be issued by an officer, department, or employee of Mercer county unless application for such permit has been examined by the Zoning Officer, whose signature shall certify that the proposed building or use of land is in compliance with all the provisions of this Resolution. Any permit or certificate issued without such certification by the Zoning Officer and in conflict with the provisions of this Resolution shall be null and void.
- 15.5.04 Plats. In order to insure that the building or structure conforms with all of the provisions of this Resolution, the Zoning Officer may require the following prior to the issuance of a Zoning Certificate:
- a. A plat (original or reproduction thereof), in duplicate, of the piece or parcel of land, lot, lots, block or blocks, drawn to scale showing the actual dimensions, as certified by a "Registered Land Surveyor" registered with the State of Illinois, as a true copy of the piece or parcel, lot, lots, block or blocks, or portions thereof, according to the registered or recorded plat of such land; and
  - b. A plat, in duplicate, drawn to a scale in such form as may, from time to time, be prescribed by the Zoning Officer, showing the ground area, height, and bulk of the building or structure, the building lines in relation to lot lines, the use to be made of the building, structure, or land, and such other information as may be required by the Zoning Officer for the proper enforcement of this Resolution.
- 15.5.05 Certificate of Occupancy. No building, or addition thereto, constructed after the effective date of this Resolution shall be occupied, and no land not in use on the effective date of this Resolution shall be used for any non-agricultural purpose until a Certificate of Occupancy has been issued by the Zoning Officer. No change in use, other than that of a permitted use to another permitted use, shall be made until a Certificate of Occupancy has been issued by the Zoning Officer. Every Certificate of Occupancy shall state that the use of occupancy complies with the provisions of this Resolution.
- a. Issuance of Certificate of Occupancy. No Certificate of Occupancy for a building, or portion thereof, constructed after the effective date of this Resolution, shall be issued until construction has been completed and the premises inspected and certified by the Zoning Officer to be in conformity with the plans and specifications upon which the Zoning Certificate was based. Pending the issuance of a regular Certificate of Occupancy, a Temporary Certificate of Occupancy may be issued to be valid for a period not to exceed 6 months from its date during the completion of any addition or during partial occupancy of the premises.

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Reasons in writing for refusal to issue a Certificate of Occupancy shall be forwarded to the applicant no later than 14 days after the Zoning Officer is notified that the building or premises are ready for occupancy.

b. Provision of Utility Service. Utility service (i.e., gas and electric) will not be turned on prior to issuance of a Certificate of Occupancy.

15.5.06 Validity of Existing Permits. Nothing herein contained shall require any change in the overall layout, plans, construction, size, or designated use of any development, building, structure, or part thereof, for which the official approvals and required permits have been granted before the enactment of this Resolution.

The construction, of which, conforming with such plans, shall have been started prior to the effective date of this Resolution and the completion thereof carried on in a normal manner within a subsequent 6 month period, and not discontinued until completion, except for reasons beyond the builder's control.

### Section 15.6 VARIANCES

15.6.01 Authority. The Board of Appeals, after a public hearing, may vary the regulations of this Resolution in harmony with its general purpose and intent only in the specific instances hereinafter set forth and only in accordance with the standards hereinafter prescribed.

15.6.02 Initiation of Variance. Variances may be requested by any person, firm, corporation or government.

15.6.03 Application for Variance. An Application for a Variance shall be filed in writing with the Zoning Officer. Said Application shall contain such information as the Board of Appeals may by rule require.

15.6.04 Hearing on Application. The Board of Appeals shall hold a public hearing on each Application for a Variance at such time and place as shall be established by the Board of Appeals. A record of such proceedings shall be preserved in such a manner as the Board of Appeals shall be rule prescribe from time to time.

15.6.05 Notice of Hearing. Notice of the time and place of such public hearing shall be published at least once, not less than 15 days, or more than 30 days before the hearing, in a newspaper of general circulation published in the County. The published notice may be supplemented by such additional forms of notice as the Board of Appeals by rule may require.



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15.6.06 Standards for Variances. As a general rule, the regulations of this resolution shall not be varied by more than 30 percent. However, any application for a variance shall be reviewed and acted upon by the Zoning Board of Appeals.

- a. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out;
- b. The conditions, upon which a petition for a variation is based are unique to the property for which the variance is sought and are not applicable, generally, to other property within the same zoning classification;
- c. The purpose of the variance is not based exclusively upon a desire to make money out of the property;
- d. The alleged difficulty or hardship is caused by this Resolution and has not been created by any persons presently having an interest in the property;
- e. The grant of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;
- f. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood; and
- g. The purpose of the variance shall not be to establish a use otherwise excluded from the particular District in which it is requested.

The Board of Appeals may impose such conditions and restrictions upon the use of the premises benefited by a variance as it may deem necessary to comply with Standards established in this Section.

15.6.07 Authorized Variances. The following instances are where variances may be granted, provided that the other requirements of this Resolution are met:

- a. To permit any yard or setback line of less dimension than required by the applicable regulations;

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- b. To permit any building or structure to exceed the height limitations imposed by the applicable regulations;
- c. To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots.
- d. To permit the same off-street parking facility to qualify as required facilities for 2 or more uses provided that substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week;
- e. To reduce the parking and loading requirements in any of the districts whenever the character or use of a building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely being granted for a convenience;
- f. To permit the alteration or enlargement of an existing building or use located on premises in a District which prohibits that use of land or building, or the height and area of buildings existing at the time of the adoption of this Resolution where such alteration or enlargement is a necessary incident to the use of the structure existing at the time of the adoption, amendment, or change of this Resolution;
- g. To permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God, or the public enemy, as where the Board finds some compelling public necessity requiring a continuance of the Nonconforming Use, and the primary purpose of continuing the Nonconforming Use is not to continue a monopoly;
- h. Finding of Fact. All decisions by the Board of Appeals on requests for variances must be supplemented with a written finding of fact stating the conformity or nonconformity, as the case may be, of their decision with the standards set forth in Section 15.6;
- i. Granting a Variance. The concurring vote of 3 members of the Board of Appeals shall be necessary to grant a variance. No decision of the Board of Appeals granting a variance shall be valid for a period longer than 1 year from the date of such decision unless the erection or alteration of a building is started or the use is commenced within such period;
- j. Effect of Denial of Variance. No Application for a variance that has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of 1 year from the date of said order of denial,

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except on the grounds of new evidence found to be valid by the Zoning Officer or except at the direction of the County Board as provided in Section 15.9 of this Resolution.

### Section 15.7 CONDITIONAL USES

- 15.7.01 Authority. The development and administration of this Resolution is based upon the division of the County into Zoning Districts, within which districts the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular District or Districts, without consideration in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at particular locations. Such uses are classified in this Resolution as "Conditional Uses" and fall into 2 categories:
- a. Uses publicly operated or traditionally affected with a public interest;  
And
  - b. Uses entirely private in character but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.
- 15.7.02 Initiation of Conditional Use. Any person having a freehold interest in land, a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest of an exclusive possessory character, any of which is specifically enforceable, may file an application to use such land for one or more of the Conditional Uses provided for in this Resolution in the Zoning District in which the land is located.
- 15.7.03 Application for Conditional Use. An Application for a Conditional use shall be filed with the Zoning Officer on a form as he/she shall prescribe. The Application shall be accompanied by such plans and/or data prescribed by the Board of Appeals and shall include a statement in writing by the applicant and adequate evidence showing that the proposed Conditional Use will conform to the standards set forth in Section 15.7.07 hereinafter. Such application shall be forwarded from the Zoning Officer to the Board of Appeals with a request for a public hearing and report relative thereto.
- 15.7.04 Hearing on Application. Upon receipt in proper form of the application and statement referred to in Section 15.7.03, the Board of Appeals shall hold at least one public hearing on the proposed Conditional Use. The hearing shall be conducted and a record of such proceedings shall be

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preserved in such manner as the Board of Appeals shall, by rule, prescribe from time to time.

15.7.05 Notice of Hearing. Notice of time and place of such hearing shall be published not less than 15 or more than 30 days preceding said hearing and at least once in one or more newspapers of general circulation published in the County. Supplemental or additional notices may be published or distributed as the Board of Appeals may, by rule, prescribe from time to time.

15.7.06 Permit Required. A Conditional Use shall require a Permit for Conditional Use. Such permit will be valid and shall be renewed annually. In addition, the permit will only be valid for the original petitioner and for the use applied for.

- a. In any event when the Zoning Officer and the Board of Appeals determines that the intent of the original use has been altered, the petitioner will be required to suspend operation of the use, or reapply to the Zoning Officer for a new Conditional Use.
- b. This procedure will follow the rules and regulations outlined in Section 15.7.

15.7.07 Standards. No Conditional Use shall be recommended by the Board of Appeals unless such Board shall find:

- a. That the establishment, maintenance, or operation of the Conditional Use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
- b. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood;
- c. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the District;
- d. That adequate utilities, access roads, drainage and/or other necessary facilities have been or are being provided;
- e. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and

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- f. That the conditional Use shall, in all other aspects, conform to the applicable regulations of the District in which it is located, except as such regulations may in each instance, be modified by the Board of Appeals.

- 15.7.08 Conditions and Guarantees. Prior to the recommendation of any Conditional Use, the Board of Appeals shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the Conditional Use as is deemed necessary for the protection of the public interest and to secure compliance with the standards specified in Section 15.7.07. For certain uses a Conditional Use permit may be recommended for a period longer than 1 year. In all cases in which Conditional Uses are recommended, the Board of Appeals shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.
- 15.7.09 Effect of Denial of a Conditional Use. No Application for a Conditional Use that has been denied wholly or in part by the Mercer County Board shall be resubmitted for a period of 1 year from the date of said order of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Zoning Officer or except at the direction of the County Board as provided in Section 15.9 of this Resolution.
- 15.7.10 Revocation. In any case where a Conditional Use has not been established within 1 year after the date of granting thereof, then without further action by the Board of Appeals the Conditional Use or authorization shall be null and void, unless otherwise specified by the Mercer County Board.
- 15.7.11 Existing Conditional Uses. Where a use is classified as a Conditional Use under this Resolution and exists as a Conditional Use or a Permitted Use at the date of the adoption of this Resolution, it shall be considered to be a legal Conditional Use.

Where a use is not allowed as a Conditional Use or a Permitted Use under this Resolution or at the date of the adoption of this Resolution and exists as a Special Use as provided in the Zoning Ordinance for Mercer County adopted April, 1960, as amended, it shall be considered a Nonconforming Use and shall be subject to the applicable nonconforming use provisions in Article XVIII of this Resolution.

- 15.7.12 Action by the County Board. The County Board shall not act on a Conditional Use Permit until they have received a written report from the

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Board of Appeals on the findings as defined in Section 15.7.07. A majority vote of the members of the County Board present at the meeting at which the Conditional Use Permit is considered shall be necessary to pass a Conditional Use Permit request.

### Section 15.8 AMENDMENTS

- 15.8.01 Authority. For the purpose of promoting the public health, safety, morals, comfort, and general welfare; conserving the value of property throughout the County; and lessening or avoiding congestion in the public streets and highways, the County Board may from time to time in the manner hereinafter set forth amend the regulations imposed in the Districts created by this Resolution. The Resolution may be amended provided that in all amendatory resolutions adopted under the authority of this Section due allowance shall be made for the existing conditions, the conservation of property values, the direction of building development to the best advantages of the entire County, and the uses to which the property is devoted at the time of the adoption of such amendatory Resolution.
- 15.8.02 Initiation of Amendment. Amendments may be proposed by the County Board, Board of Appeals, or by any interested person or organization.
- 15.8.03 Application for Amendment. An Application for an Amendment shall be filed with the Zoning Officer in such form and accompanied by such information as may be required by the Zoning Officer. Such application shall be forwarded to the Board of Appeals with the request to hold a public hearing on said Application for Amendment.
- 15.8.04 Hearing on Application. The Board of Appeals shall hold a public hearing on each Application for an Amendment to be held on a regular basis as determined by the Chair of the Board of Appeals. The hearings shall be held in the Mercer County Courthouse, Aledo. A record of such proceedings shall be preserved in a manner as the Board of Appeals may, by rule, prescribe from time to time.
- 15.8.05 Notice of Hearing. Notice of time and place of such hearing shall be published at least once in one or more newspapers of general circulation published in the County not less than 15 nor more than 30 days before such hearing. Supplemental or additional notices may be published or distributed as the Board of Appeals may, by rule, prescribe from time to time.
- 15.8.06 Recommendation of the Board of Appeals. Within 45 days after the close of the hearing on a proposed amendment, the Board of Appeals shall make written findings of fact and shall submit same together with its recommendations to the County Board. Where the purpose and effect of the proposed amendment is to change the zoning classification of particular

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property, the findings of fact and recommendation shall include the following information:

- a. Existing use of property within the general area of the property in question;
- b. The zoning classification of property within the general area of the property in question;
- c. The trend of development, in any, in the general area of the property in question, including changes, if any, which have taken place since the day the property in question was placed in its present zoning classification; and
- d. The suitability of the property in question to the uses permitted under the existing and the proposed zoning classification.

The Board of Appeals shall recommend the adoption of a proposed amendment when it is found that the adoption of such amendment is in the public interest and is not solely for the interest of the applicant. The Board of Appeals may recommend the adoption of an amendment changing the zoning, classification of the property in question to any higher classification than that requested by the applicant. For the purpose of this paragraph, the AG-1 Agricultural District shall be considered the highest classification and the 1-1 Industrial District shall be considered the lowest classification.

15.8.07 Spot Zoning. A lot, lots, or parcel of land shall not qualify for a Zoning Amendment unless it possesses at least 200 feet of frontage or contains at least 25,000 square feet of area, or adjoins a lot, lots, or parcel of land which bears the same Zoning District Classification as the proposed Zoning Amendment.

15.8.08 Action by the County Board. The County Board shall not act upon a proposed amendment to this Resolution until they have received a written report and recommendation from the Board of Appeals on the proposed amendment. A majority vote of the members of the County Board present at the meeting at which the amendment is considered shall be necessary to pass an amendment. The favorable vote of at least three-fourths of all of the members of the County Board shall be necessary to pass an amendment in the following instances:

- a. When a written protest against the proposed amendment is filed with the County Clerk, signed and acknowledged by the owners of 20 percent of the frontage proposed to be altered, or by the owners of 20 percent of the frontage immediately

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adjoining or across on alley there from, or by the owners of 20 percent of the frontage directly opposite the frontage proposed to be altered; or

- b. When a land affected by a proposed amendment lies within 1-1/2 miles of the limits of a zoned municipality and a written protest against the proposed amendment is passed by the City council or President and Board of Trustees of the zoned municipality with the limits nearest adjacent, and filed with the County Clerk.

In such cases a copy of the written protest shall be served by the protestor or protestors or 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.

- 15.8.09 Effect of Denial of an Amendment. No Application for an Amendment that has been denied wholly or in part by the County Board shall be resubmitted for a period of 1 year from the date of said denial except on the grounds of new evidence or proof of change of conditions found to be valid by the Zoning Officer.

### Section 15.9 APPEALS

- 15.9.01 Authority. The County Board, after a hearing, may vary any order, requirement, decision, or determination made by the Board of Appeals, or may instruct the Board of Appeals to reconsider, after a hearing, the action resulting in the Appeal.
- 15.9.02 Initiation of Appeal. Any person, firm, corporation, or any officer, department, board, or bureau of the County may request an Appeal.
- 15.9.03 Application for Appeal. Such Appeal shall be made within 30 days from the date of the action appealed from, by filing in writing with the Zoning Officer a Notice of Appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the County Board all papers constituting the record upon which the action appealed from was taken.
- 15.9.04 Imminent Peril to Life and Property. An Appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Officer certifies to the County Board, after the Application of Appeal has been filed, that by reason of facts stated in the certificate a stay would in his/her opinion, cause imminent peril to life or property.
- 15.9.05 Hearing on Application. The county Board shall hold a hearing on each Application for an Appeal at such time and place as shall be established by the County Board.



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- 15.9.06 Notice of Hearing. Due notice of the time and place of said hearing on an Appeal shall be sent to all affected parties.
- 15.9.07 Action by the County Board. The County Board may affirm or may, upon the concurring vote of three fourths of its members, reverse wholly or in part, or modify the Board of Appeal's Interpretation. The County Board may, on the other hand, instruct the Board of Appeals by a majority vote of the members present, to reconsider, after a hearing, the action resulting in the Appeal.
- a. The Board of Appeals may affirm or may, upon the concurring vote of 3 members, reverse wholly or in part, or modify, its original interpretation. To that end, the Board of Appeals shall have all the powers of the officer from whom the Appeal is taken.
  - b. Finality of Decision. All final administrative decisions on Appeals by the Board of Appeals rendered under the terms of this Resolution shall be subject to judicial review pursuant to the provisions of the "Administrative Review Act" approved May 8, 1945, all amendments and modifications thereof, and the rules adopted pursuant thereto.

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### ARTICLE XVII

#### NONCONFORMING USES AND STRUCTURES

##### Section 16.1 INTENT

- 16.1.01 Continuance of Nonconformities. Within the districts established by this Resolution or amendments that may later be adopted, there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this Resolution was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Resolution. It is the intent of this Resolution to permit these nonconformities to continue until they are removed, but not to encourage their survival under the terms of this Resolution. It is further the intent of this Resolution that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same District.
- 16.1.02 Enlargement of Nonconformities. Nonconforming Uses are declared by this Resolution to be incompatible with permitted uses in the Districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this Resolution by attachment on a building or by the addition of the same or other uses of a nature which would be prohibited generally in the District involved.
- 16.1.03 Interim Provisions. To avoid undue hardship, nothing in this Resolution shall be deemed to require a change in the plans, construction, or designated use by any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Resolution and upon which actual construction has been carried on diligently. Actual construction is hereby defined to be the placing of construction materials in a permanent manner. Where excavating, demolition, or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation, demolition, or removal shall be deemed to be actual construction provided that work shall be carried on diligently.

##### Section 16.2 RESTRICTION ON NONCONFORMING BUILDINGS, STRUCTURES, AND USES

Any lawfully existing building or structure which does not conform to the regulations of the District in which it is located may be continued, subject to the provisions of this Section.

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### 16.2.01 Repairs and Alterations.

- a. Buildings or structures designed or intended for a Nonconforming Use. General maintenance, repairs and alterations may be made to a nonconforming building or structure, provided that no structural alterations which increase the bulk of the building or structure shall be made in or to said building or structure. However, this prohibition of the enlargement of Nonconforming Uses shall not apply to those structural alterations required by law or directed at correcting said nonconformity in whole or in part.
- b. Building or structure designed, or intended for a permitted use. Repairs, alterations, and structural changes may be made to a nonconforming building or structure, all or substantially all of which is designed or intended for a use permitted in the District in which it is located provided said repairs, alterations, or structural changes conform to the regulations of the District in which said building or structure is located.

16.2.02 Relocation of Building or Structure. No building or structure shall be moved in whole or in part to any other location on the same or any other lot unless every portion of such building or structure which is moved, and the use thereof, is made to be in further conformance with all of the regulations of the District in which it is to be located than was the case prior to said relocation.

### 16.2.03 Restoration of Damaged Building or Structure Designed or Intended for a Nonconforming Use.

- a. Restoration when damage exceeds 50 percent. A nonconforming building or structure which is destroyed or damaged by fire, explosion, act of God, or public enemy to the extent that the cost of restoration to the condition in which it was before the occurrence exceeds 50 percent of its actual cash value as determined by the Official County Tax Assessment and Equalization Rate, shall not be restored, unless said building or structure shall conform to all of the regulations of the District in which it is located.
- b. Restoration when damage is less than 50 percent. In the event such damage or destruction to the structure is less than 50 percent of its actual value as determined by the Official County Tax Assessment and Equalization Rate, no repairs or reconstruction shall be made unless such restoration is started within 1 year from the date of partial destruction and is diligently prosecuted to completion.

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- c. Initiation of restoration. If the restoration is not started within 1 year of said calamity and diligently prosecuted to completion, the building or structure shall be removed and the area cleared.
- 16.2.04 Discontinuance of Nonconforming Use. If the Nonconforming Use of a building, structure, or premises is discontinued for a continuous period of 12 months, it shall not be renewed; and any subsequent use of the building, structure, or premises shall conform to the use regulations of the District in which such building, structure, or premises is located.
- 16.2.05 Expansion of Nonconforming Use.
- a. Building or structure designed or intended for a Nonconforming Use. The nonconforming use of part of a building or structure, all or substantially all of which is designed or intended for a use not permitted in the District in which it is located, may be extended throughout the building or structure in which said use is presently located. However, any changes or structural alterations made to achieve these ends shall conform to those provisions contained in Section 17.2.01.
  - b. Building or structure designed or intended for a permitted use. The nonconforming use of part of a building or structure, all or substantially all of which building or structure is designed or intended for a use permitted in the District in which it is located, shall not be expanded or extended into any other portion of such building or structure nor changed to any other Nonconforming Use.
  - c. Land. The nonconforming use of land, not involving a building or structure, shall not be expanded or extended beyond the area it occupies.

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ARTICLE XVIII

INOPERABLE MOTOR VEHICLES, NUISANCE AND FINES

By this ordinance all inoperable motor vehicles, whether on public or private property are declared to be a nuisance and authorized fines are to be levied for the failure of any persons to obey a notice received from Mercer County which states that such persons is to dispose of any inoperable motor vehicles under his or her control. However, nothing in the Section shall apply to any motor vehicle that is kept within a building when not in use, to historic vehicles over 30 years of age, or to motor vehicles on the premises of a place of business engaged in the wrecking or junking of motor vehicles.

**MERCER COUNTY, ILLINOIS  
ORDINANCE NO. 2001-3  
NUISANCE VEHICLE ORDINANCE Part A**

**WHEREAS the 55 ILCS 515-1092 allows the County Board to declare, by ordinance, inoperable motor vehicles, whether on public or private property, to be a nuisance and to authorize fines to be levied for the failure of any person to obey a notice received from the County which states that such person is to dispose of any inoperable motor vehicles under his control, and may authorize a law enforcement agency, with applicable jurisdiction, to remove, after 7 days, from the issuance of the County notice, an motor vehicle or parts thereof.**

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF MERCER COUNTY, ILLINOIS:**

Section 17.1 TITLE AND PURPOSE

17.1.01 Title. This ordinance shall be known, referred to and cited as "The Nuisance vehicle Ordinance of Mercer County, Illinois".

17.1.02 Purpose. The purpose of this ordinance is to provide a means to have nuisance, Inoperable motor vehicles removed from private or public property within Mercer County and for the proper disposal of such nuisance, inoperable motor vehicles by the appropriate law enforcement agency of Mercer County.

Section 17.2 DEFINITIONS:

17.2. 01 Definitions. For the purposes of this ordinance, certain words, phrases and terms shall be construed and interpreted as set out in this Section.

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Appropriate Law Enforcement Agency shall mean the Mercer County Sheriff's Department.

County Board shall mean the County Board of Mercer County, Illinois, the duly elected legislative body of the County.

Inoperable Motor Vehicle is any motor vehicle, whether on public or private property, from which, for a period of seven (7) days, the engine (motor), wheels or other parts have been removed or altered, damaged or otherwise treated such that the vehicle is incapable of being driven under its own motive power, but shall not include:

- a. Any motor vehicle which has been rendered temporarily incapable of being driven under its own motive power in order to perform ordinary service or repair on the vehicle.
- b. Any motor vehicle which is kept within a building when not in use,
- c. Any operable historic vehicles over 25 years of age,
- d. Any motor vehicle on the premises of a place of business legally engaged in the business of wrecking or junking motor vehicles.

Sheriff shall mean the Mercer County Sheriff.

### Section 17.3 NUISANCE DECLARATION

The County Board hereby declares any inoperable motor vehicle, whether on public or private property, to be a public nuisance. After investigation of such a vehicle by the Sheriff, the County Zoning officer may issue written notice, by certified mail, return receipt requested, to the vehicle owner, or any person having control, of the inoperable motor vehicle. The notice shall direct disposal of said inoperable motor vehicle either by removing it from the property or enclosing it within a building within seven (7) days of the date of said notice.

### Section 17.4 AUTHORIZATION FOR SHERIFF TO REMOVE INOPERABLE MOTOR VEHICLE

The Mercer county Sheriff, after notice to the owner, is hereby authorized to remove from public or private property any inoperable motor vehicle which is a nuisance as defined and to properly dispose of the inoperable motor vehicle. Removal and disposal of such inoperable motor vehicle shall be at the expense of the owner, or person having control of the inoperable motor vehicle. Unclaimed vehicles may be disposed of pursuant to statute.

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### Section 17.5 FAILURE TO DISPOSE OF A NUISANCE VEHICLE

It shall be unlawful for the owner, or person having control, of inoperable motor vehicles, as defined in this ordinance, to, without good cause, willfully fail or refuse to properly dispose of any inoperable motor vehicle within seven (7) days after being served by certified mail, notice from the County declaring such inoperable motor vehicle to be a nuisance and ordering the proper disposal, either by removal or enclosure of such vehicle within seven (7) days.

### Section 17.6 PENALTIES

Any person, firm or corporation violating this ordinance shall be guilty of a petty offense and shall be fined not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) for each violation, and each week an inoperable motor vehicle remains on the property, after notice by the County to remove such vehicle, shall constitute a separate offense.

### Section 17.7 SEPARABILITY

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, it shall be separable without affecting the validity of remaining portions of this ordinance. All other county Ordinances or resolutions in conflict with provisions of this ordinance are hereby repealed.

## **MERCER COUNTY, ILLINOIS ORDINANCE NO. 2001-4 NUISANCE VEHICLE ORDINANCE Part B**

**WHEREAS, 720 ILCS, 5/47-5 (1996), Illinois Compiled Statutes, permits the County Board to declare what area nuisances within the unincorporated areas of the County, and abating those nuisances;**

**WHEREAS, 55ILCS, 5/5-1113 (1992), Illinois Compiled Statutes, permits the County Board to pass all ordinances and make all rules and regulations proper or necessary to carry into effect the powers granted to Counties, with such fines or penalties as may be deemed proper no fine or penalty to exceed Five Hundred (\$500.00) Dollars, and;**

**WHEREAS, certain acts have a tendency to render the unincorporated area of Mercer County, Illinois, unsightly and create adverse effects upon the quality of life in the Unincorporated areas of Mercer County, Illinois;**

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### **THEREFORE, BE IT RESOLVED BY THE COUNTY BOARD OF MERCER COUNTY, ILLINOIS, AS FOLLOW:**

#### Section 17.8 NUISANCE DECLARATION

It shall be unlawful for any person or corporation to cause, permit or maintain the existence of any nuisance upon any property, public or private, under the ownership, leasehold or control of such person or corporation in the unincorporated area of Mercer County, Illinois.

#### Section 17.9 NUISANCES DEFINED

Within Mercer County outside of local municipalities, it is hereby declared a nuisance for any person; owner or possessor of land:

- (1) Nuisances defined by state law; nuisances in fact. To cause any of those acts or omissions that are declared to be nuisances by the laws of the state at 720 ILCS 5/47-5, and such as are known as nuisances to the common law, not hereinafter enumerated in this section or this Code; or to cause those acts or omissions which are nuisances in fact.
- (2) Nuisances defined by this Code. To cause any of those acts or omissions that is declared by this Code to be nuisances.
- (3) Unsafe, unsightly structures. To maintain any building, structure, street, sign or billboard in an unsafe, hazardous, or abandoned condition.
- (4) Distillery, slaughterhouse, etc. To carry on, use, or occupy any distillery or slaughtering establishment, or establishment for steaming or rendering lard, tallow, offal, dead animals, or other substance of like nature, without permission of the County Board and all state licensing agencies.
- (5) Abandoned refrigerators. To leave or permit standing outside of any structure, or within any abandoned structure, in a place accessible to children, any abandoned, unattended, or discarded icebox, refrigerator, or other container which has an air tight door or lid with a snap lock or other locking device which cannot be released from the inside; except that it shall not be a nuisance under the subsection if the door is first removed from the device.
- (6) Inoperable motor vehicles. As defined by Illinois Compiled Statutes, 65 ILCS 5/11-40-3, for a period of at least 30 days, the engine, wheels or other parts have been removed, on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own power.
- (7) Junk. To store, salvage, abandon or accumulate longer than thirty (30) days on their property trash, vehicles, junk or garbage unless in a building or screened by shrubbery, tree planting, or nearly maintained screening fences so that the contents of the fenced or screened area is not visible from the adjacent roads or lots.



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Junk includes but is not limited to waste, used or second hand material, such as scrap iron, other metals, paper, rags, tires, bottles, movable structures and more specifically, waste resulting from the handling, preparation, cooking, consumption and sale of food; waste resulting from the handling, storage and sale of produce; combustible trash, including but not limited to paper, cartons, boxes, barrels, wood, excelsior, tree trimmings, tree branches, leaves, dead trees, yard trimmings. Wood furniture, old bedding and rags; noncombustible trash, including but not limited to tin cans, metal furniture, accumulation of dirt, quantities of rock, quantities of broken pieces of concrete, glass crockery, metal and other mineral waste" street rubbish including but not limited to street sweepings, catch basin dirt, contents of litter receptacles, ashes, flowage from broken or filled septic tanks or cesspools, flowage of draining of sinks, stools, lavatories, and similar places; motor vehicles inoperable or immobile under their own power or various large parts thereof including but not limited to car bodies, truck cabs, dismantled, partially destroyed or deteriorated buildings or other structures, and which have remained in such partially dismantled, destroyed or deteriorated condition for a period of six months without substantial repair made within the six (6) month period. Per landfill, dumping and litter laws it shall be illegal to abandon such items on another's property.

Rodent control shall be maintained so that they will not create a nuisance to adjacent lots. No person shall allow residential lot, residence property or residence area to become so overgrown with weeds that hazardous conditions might be concealed or habitat provided for nuisance animals including rats.

(8) Attractive nuisances. For the owner or occupant of any premises to create, maintain, or suffer any attractive nuisance to remain on the premises.

(9) Zoning violations. To violate the Zoning Ordinance of the County.

(10) Unhealthy conditions. To create, allow, maintain, or permit any condition which may endanger the public health.

(11) Encroachments. To cause, allow, permit, or suffer any encroachment upon public ways or upon public grounds without obtaining a permit thereafter.

(12) Burning. To burn tires or garbage except as approved by the Illinois Environmental Protection Agency.

### Section 17.10 PENALTIES

Pursuant to 55 ILCS 5/5-1113 a penalty of between \$100.00 and \$500.00 for each day of a violation. A summons or warrant may be issued for any alleged violation upon affidavit that reasonable grounds exist that a person is guilty of a violation of this ordinance.

### Section 17.11 EMERGENCY ABATEMENT OF CERTAIN NUISANCES

When a nuisance as defined by 55 ILCS 5/5-1118 (garbage and debris) or 55 ILCS 5/5-1121 (unsafe building) exists and the nuisance causes or threatens imminent danger or great

## ADMINISTRATION

period to persons or property, the nuisance may be immediately abated by the County, by using the following procedure:

- (1) The County Zoning officer or County Public Health Administrator shall find that the nuisance exists, and that the nuisance causes or threatens imminent danger or great peril to persons or property, and that an emergency exists.
- (2) A copy of the above County official findings made under subsection (1) shall be placed on file in the office of the county clerk.
- (3) The State's Attorney shall immediately issue a notice directed to the owner or occupant of the premises on which the nuisance exists, directing the owner or occupant to immediately abate the nuisance.
- (4) The notice issued pursuant to subsection (3) shall be served upon the owner or occupant of the premises upon which the nuisance exists, to their last known address. The notice may be served by any officer or employee of the county. In the event that the owner or occupant of the premises is not to be found, the notice may be posted on the premises on which the nuisance exists.
- (5) Upon being served with a notice to abate a nuisance as provided in subsection (4), the owner or occupant of the premises on which the nuisance is located, has 15 days to abate the nuisance. The failure of the owner or occupant to abate the nuisance upon service or posting of the notice shall be a violation of Section I of this ordinance and shall be punished as provided in Section III of this ordinance.
- (6) In the event that the owner or occupant of a premise on which garbage is ordered to be removed under this section does not abate the nuisance, the County may immediately abate the nuisance in cases of cleaning up garbage and debris under 5/5-1118. The cost of the abatement by the County shall be assessed against the property on which the nuisance existed, and shall be collected and/or become a lien on the property.
- (7) In the event the owner of an unsafe building does not demolish, repair, or enclose unsafe buildings the County Board may apply to the Mercer County Circuit Court for authority to take action to require the owners to demolish or repair or enclose pursuant to 5/5-1121. Alternatively the Court may authorize the County to demolish, repair, or enclose with all costs as defined by the statute becoming recoverable and/or a lien for the County.

## ARTICLE XIX

### FEES, PENALTIES, AND LEGAL STATUS PROVISIONS

#### Section 18.1 FEES

Any Application for Amendment or Conditional Use, filed by or on behalf of the owner of the property affected, shall be accompanied by a fee of two hundred dollars. There shall be a one hundred, fifty dollar fee for annual renewal of a conditional use permit. The fee for Variances shall be one hundred, twenty five dollars. Appeals fee will be one hundred, fifty dollars. The fee for a Building Certificate shall be twenty five dollars plus five dollars for each one thousand dollars of real valuation of said structure. The fee for a Certificate of Occupancy shall be one dollar for each one thousand dollars of said valuation of structure. There shall be no fee for construction costs.

#### Section 18.2 PENALTIES

Any persons, firms or corporations, or agents, employees or contractors of such, who violate, disobey, omit, neglect, or refuse to comply with, or who resist enforcement to any of the provisions of this Resolution shall be guilty of a petty offense punishable by a fine or not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00) together with the costs of prosecution, with each week the violation remains uncorrected constituting a separate offense.

#### Section 18.3 VALIDITY

If an article, section, subsection, sentence, clause, or phrase of this Resolution is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Resolution.

#### Section 18.4 INTERPRETATION, REPEALER, CONFLICT

In interpreting and applying the provisions of this Resolution they shall be held to be the minimum requirements for the promotion of the public health, safety, morals, comfort, and general welfare.

Hence, all ordinances, resolutions, or parts thereof in conflict with the Resolution are hereby repealed insofar as they conflict with the provisions of this Resolution.

Also, it is not intended by this Resolution to interfere with, abrogate or annul any easements, covenants, or other agreements between parties, provided, however, that wherever this Resolution imposes greater restrictions upon the use of buildings, structures, or land, or requires more restrictive building lines, then the provisions of this Resolution shall control.

ARTICLE XX

THE COUNTY BOARD OF  
MERCER COUNTY, ILLINOIS  
RESOLUTION AMENDING THE  
MERCER COUNTY ZONING ORDINANCE  
WIND ENERGY

19.1 TITLE.

This ordinance shall be known as the Wind Energy Ordinance.

19.2 AUTHORITY.

This ordinance is adopted pursuant to authority granted by ILCS Chapter 55 Counties Division 5-12 Zoning and Section 5/5-1063 Building Construction, Alteration, Maintenance.

19.3 PURPOSE.

The purpose of this ordinance is to preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a wind energy system and to allow for the orderly development of land, protect property values and esthetic conditions within the county. This ordinance does not repeal, abrogate, annul, impair, or interfere with any existing ordinance.

19.4 APPLICABILITY.

This ordinance applies to all unincorporated lands within the boundaries of Mercer County.

19.5 DEFINITIONS.

In this ordinance:

- (1) "Board" means the Zoning Board of Appeals.
- (2) "Committee" means the County Zoning Committee.
- (3) "Code Administrator" means the Zoning Officer/Building Administrator
- (4) "County Board" means Mercer County Board.
- (5) "County Engineer" means Mercer County Engineer.
- (6) "Department" means the Zoning/Building Department.
- (7) "Large Wind System" means a wind energy system that has a nameplate capacity of more than 50 kilowatts, a total height of more than 100 feet, a blade diameter of more than 30 feet, and one or more wind towers with turbines.
- (8) "Small Wind System" means a wind energy system that has a name plate capacity of 50 kilowatts or less, a total height of 100 feet or less, a blade diameter of 30 feet or less, and one or more wind towers with turbines.

(9) "Total Height" means the vertical distance from ground level to the tip of a wind turbine blade when the tip is at its highest point.

(10) "Wind Energy System" means equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the system.

(11) "Wind Farm System" means a wind energy system that includes two or more wind towers.

(12) "Wind Tower" means the monopole, freestanding, or guyed structure than supports a wind turbine generator.

(13) "Zoning Ordinance" means Mercer County Zoning Ordinance as amended.

## 19.6 STANDARDS.

### 19.6.01 Location.

(a) A large wind energy system may only be located in areas that are zoned AG-I Agriculture or 1-1 Industrial with special use and building permits. A small wind system may be located in any zoning map district with special use and building permits. A large wind energy system shall be located 1.1 times total tower height or more from any permanent structure on subject property, measured from wind tower base.

(b) A small wind energy system shall be located 1.1 times total tower height or more from an occupied structure on adjoining property and 1.1 times total height or more from occupied structure on subject property measured from wind tower base.

### 19.6.02 Set Backs.

(a) A small wind system must be set back from all property lines of the parcel on which it is located and from any right-of-way a distance 1.1 times total tower height measured from wind tower base.

(b) A large wind system must be set back minimum distances as follows:

1. 1.1 times total tower height from any and all public/private right-of-way lines measured from wind tower base.
2. 1.1 times the tower height from all other property lines, measured from the wind tower base.

### 19.6.03 Spacing and Density.

A wind energy system shall be separated from any other wind energy system by a minimum of 200 feet measured from the tips of the blades when the blades are parallel with the ground.

### 19.6.04 Structure.

A wind energy system shall be of monopole construction to the extent practicable. If monopole construction is not practicable, a wind tower must be of freestanding

construction to the extent practicable. If monopole or freestanding construction is not practicable, a wind tower may be guyed.

#### 19.6.05 Height.

The total height of a wind energy system shall be 500 feet or less.

#### 19.6.06 Clearance.

The vertical distance from ground level to the tip of a wind turbine blade when the blade is at its lowest point must be at least 25 feet.

#### 19.6.07 Access.

Any wind tower located in a wind energy system, including any climbing aids, shall be secured against unauthorized access by means of a locked barrier or security fence.

#### 19.6.08 Electrical Wires.

All electrical wires associated with a wind energy system, other than wires necessary to connect the wind turbine to its base and to overhead collection lines, shall be located underground unless a variance is approved by the board.

#### 19.6.09 Lighting.

As required by the Federal Aviation Administration, required lighting must comply with FAA minimum requirements and, whenever possible, be at the lowest intensity allowed using red lights at night. If more than one lighting alternative is available, the alternative that causes the least visual disturbance must be used.

#### 19.6.10 Equipment.

Unless located underground, any electrical equipment associated with a wind energy system shall be located under the sweep area of a blade assembly unless a variance is approved by the board.

#### 19.6.11 Appearance, Color, and Finish.

The exterior surface of any visible components of a wind energy system must be a non-reflective, neutral color. Wind towers and turbines in an established wind farm system that are located within 1000 feet of each other must be of uniform design, including tower type, color, number of blades, and direction of blade rotation unless a variance is approved by the board.

#### 19.6.12 Signs.

No wind turbine, tower, building, or other structure associated with a wind energy system may be used to advertise or promote any product or service. No word or graphic representation, other than appropriate warning signs and owner identification, may be placed on a wind turbine, tower, building, or other structure associated with a wind energy system so as to be visible from any public road.

### 19.7 PERMIT REQUIREMENTS.

#### 19.7.01 Condition Use Permit.

A condition use permit approved by the County Board is required for each wind energy system except for a small wind energy system used for agricultural purposes. See Mercer County Zoning Ordinance Sec 15.7 Conditional Uses.

#### 19.7.02 Building Permit.

A building permit is required for the installation of each wind energy system except for a single small wind energy system used for agricultural purposes.

#### 19.7.03 Expiration.

A conditional use permit issued pursuant to this ordinance expires if:

- (a) The wind energy system is not installed and functioning within 1 year from the date the permit is issued; or
- (b) The wind energy system is out of service or otherwise unused for a continuous 12-month period. Board may grant extensions to the 1 year and 12 month deadlines based on hardship conditions.

#### 19.7.04 Fees.

- (a) The application for a conditional use permit must be accompanied by the fee required for each wind energy system.
- (b) The application for a building permit must be accompanied by the fee required for each wind energy system.
- (c) A small wind energy system used for agricultural purposes is exempt from zoning and building fees.
- (d) All fee amounts to be found under Section 18.1 - FEES, of the Mercer County Zoning Ordinance as amended.

#### 19.7.05 Financial Assurance.

- (a) Reasonable evidence of financial ability to construct the wind energy system as determined by the County Board is a condition precedent to the issuance of any conditional use or building permit under this ordinance.

- (b) Mercer County and/or the property owner leasing land for a wind energy system may require a performance bond, surety bond, escrow account, letter of credit or other financial assurance to Mercer County and/or property owner for each wind energy system that guarantees the performance of the restoration requirement set forth in Section 2.08.

## 19.8 RESTORATION REQUIREMENT.

### 19.8.01 Abandonment.

A wind energy system that is out of service for a continuous 12-month period will be deemed to have been abandoned. The Code Administrator may issue a Notice of Abandonment to the owner of a wind energy system that is deemed to have been abandoned. The Code Administrator WILL withdraw the Notice of Abandonment if the Board approves an extension based on hardship conditions.

### 19.8.02 Termination.

The owner of a wind energy system shall provide the Code Administrator with a Written Notice of Termination of Operations if the operation of a wind energy system is terminated.

### 19.8.03 Physical Removal.

Within 8 months of receipt of Notice of Abandonment or within 8 months of providing Notice of Termination of Operations, the owner of a wind energy system must:

- (a) Remove all wind turbines, above ground improvements, and outdoor storage;
- (b) Remove all foundations, pads, and underground electrical wires to a depth of 4 feet below the surface of the ground; and
- (c) Remove all hazardous material from the property and dispose of the hazardous material in accordance with federal and state law.

### 19.8.04 Failure to Comply.

Failure to comply with any of the conditions or restrictions imposed on a conditional use permit shall be deemed a violation of the Zoning Ordinance.

### 19.8.05 Appeals.

All Code Administrator determinations may be appealed to the Board.



## 19.9 CONDITIONAL USE PERMITS PROCEDURE.

### 19.9.01 Application

Conditional use permit applications shall be submitted to the Code Administrator. The application must be on a form approved by the Code Administrator and must be accompanied by 10 copies of a scaled drawing, other descriptive information sufficient to enable the Committee and Board to determine whether the requirements of this ordinance will be satisfied, and such other information as may be specified on the application form. The Code Administrator will review the application materials for completeness and may request that the applicant provide additional information. When the Code Administrator determines that the application is complete, the Code Administrator will forward it to the Committee and Board.

### 19.9.02 Hearing

The Committee and Board will conduct a hearing on the application within 60 days after application submittal and minimum 15 day public notice. The public meeting and hearing both Committee and Board will submit recommendations and finding of facts to the County Board.

### 19.9.03 Conditional Use Permits

The County Board may grant a conditional use permit if it determines that the requirements of this ordinance are met and that granting the permit will not unreasonably interfere with the orderly land use and development plans of the county. Both the Board and County Board may include conditions in the permit as provided if those conditions preserve or protect the public health, safety and property values. Both the Board and County Board may consider the following factors when setting conditions:

- (a) Proposed ingress and egress.
- (b) Proximity to transmission lines to link the system to the electric power grid.
- (c) Number of wind turbines and their location.
- (d) Nature of land use on adjacent and nearby properties.
- (e) Location of other wind energy systems in the surrounding area.
- (f) Surrounding topography.
- (g) Proximity to residential structures, residential zoning districts, or areas identified for future residential use.
- (h) Design characteristics that may reduce or eliminate visual obtrusiveness.
- (i) Possible adverse effects on migratory birds, raptors, and other animals and wildlife.
- (j) Possible adverse effects of stray voltage, interference with broadcast signals, shadow effect, and noise.
- (k) Impact on the orderly development, property values, and esthetic conditions within the county.
- (l) Recommendations of interested parties that may be affected by the wind energy system.
- (m) Any other factors relevant to proposed system.

#### 19.9.04 Variances

The Board may consider variances to one or more of the factors. See Mercer County Zoning Ordinance Sec 15.6 Variances.

#### 19.9.05 Final Determination

The Committee and Board recommendations, finding of facts and any conditions will be recorded in the minutes and forwarded to the County Board for final determination.

#### 19.9.06 Appeals

The County Board's decision to approve or reject the conditional use permit application may be appealed to the Circuit Court.

### 19.10 BUILDING PERMIT PROCEDURE.

#### 19.10.01 Application

Building permit applications shall be submitted to the Code Administrator. The Application must be on a form approved by the Code Administrator and must be accompanied by two copies of a drawing that shows the proposed location and distance of the wind energy system with reference to the property lines of the parcel on which it is located; any residence, business, or public building on an adjacent parcel; the right-of-way of any public road that is within 500 feet; and such other information as may be specified on the application form. Construction plans prepared and sealed by a structural engineer licensed to practice in Illinois, will be required for each wind energy system. Special inspections by approved inspection agencies will be required. A copy of the FAA permit for lighting, if necessary, will also be required.

#### 19.10.02 Time Frame

The Code Administrator should issue a permit or deny the application within one month of the date on which the application is received.

#### 19.10.03 Meets Requirements

The Code Administrator will issue a building permit for a wind energy system if the application materials show that the proposed tower location meets the requirements of this ordinance, building code and the conditional use permit issued by the County Board.

#### 19.10.04 Copies

If the application is approved, the Code Administrator will return one copy of the drawing with the building permit and retain the other copy with the application.

#### 19.10.05 Rejection

If the application is rejected, the Code Administrator will notify the applicant in writing and provide a written statement of the reason why the application was rejected.

#### 19.10.06 Posting

The building permit must be conspicuously posted on the premises so as to be visible to the public at all times until construction or installation of the tower is complete.

#### 19.10.07 Appeals

All Code Administrator determinations may be appealed to the Board.

### 19.11 SIGNAL INTERFERENCE.

The owner of a wind energy system must take such reasonable steps as are necessary to prevent, eliminate, or mitigate any interference with cellular, radio or television signals caused by the wind energy system.

### 19.12 VIOLATIONS.

It is unlawful for any person to construct, install, maintain, modify, or operate a wind energy system that is not in compliance with this ordinance or with any condition contained in a conditional use or building permit issued pursuant to this ordinance. See applicable Zoning Ordinance, and ILCS sections.

### 19.13 ADMINISTRATION AND ENFORCEMENT.

#### 20.13.01 Administration

This ordinance shall be administered by the Code Administrator.

#### 19.13.02 Entering property

The Code Administrator may enter any property for which a conditional use or building permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met as specified by statute, ordinance and code.

### 19.14 PENALTIES.

19.14.01 Zoning - petty offense.

Maximum \$500 fine with each week violation continues uncorrected constituting a separate offense. Building - petty offense. Maximum \$500 fine with each week violation continues uncorrected constituting a separate offense.

19.14.02 Enforcement

Nothing in this section shall be construed to prevent the county from using any other lawful means to enforce this ordinance.

19.15 COUNTY HIGHWAY AND TOWNSHIP ROAD AGREEMENTS.

Each wind energy system shall have a written agreement with County Engineer and respective Township Highway Commissioner(s) regarding use of county/township road, bridges and right-of-way. Performance/surety bonds or other financial assurance documents may be required to guarantee the performance of the road agreements before a building permit can be issued.

19.16 WIND ENERGY SYSTEM OWNER/COUNTY/PROPERTY OWNER RESTORATION AGREEMENT.

Each wind energy system shall have a written agreement with Mercer County and/or property owner regarding restoration requirements as discussed in this ordinance. Performance/surety bonds or other financial assurance documents may be required to guarantee restoration (decommissioning) before a building permit can be issued.

19.17 RELATED RULES AND REGULATIONS.

Each wind energy system shall comply with all applicable local, state and federal requirements.

19.18 SEVERABILITY.

The provisions of this ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

19.19 DECOMMISSIONING PLAN

19.19.01 Elements

Prior to the issuance of construction permits, Owner or Operator shall prepare A Decommissioning Plan with the following elements:

- A. Provisions describing the triggering events for decommission the Wind Energy Project;

- B. Provisions for the removal of above-ground structures, debris, and cabling, and provisions for the removal of underground foundations and cables down to a depth of 4 feet below the soil surface;
- C. Provisions for the restoration of the soil and vegetation;
- D. An estimate of the decommissioning costs and salvage value, certified by a Professional Engineer or other qualified professional reasonably acceptable to the County, which shall be updated and submitted to the Mercer County Zoning Enforcing Officer every five years;
- E. Financial Assurance, secured by the Owner or Operator, for the purpose of adequately performing decommissioning, in an amount equal to the positive decommissioning cost and salvage value;
- F. Identification of and procedures for County access to Financial Assurances;
- G. 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
- H. A provision that the County shall have access to the site, pursuant to reasonable notice, to effect or complete decommissioning.

#### 19.19.02 Review

The Zoning Board shall approve the Plan after review that the decommission plan meets industry standards once as part of the application process.

#### 19.19.03 Remedies

If the owner-or-operator fails at any point to comply with the approved plan the County has the following remedies:

- A. The Applicant's, Owner's, or Operator's failure to materially comply with any of the above provisions shall constitute grounds for a revocation of the construction permit or default under this Ordinance. Approval of the conditional use for a Wind Energy Conversion System shall be deemed conclusive evidence that the Applicant, Owner, or Operator has complied with the above provisions with respect to application for and approval of such special use or.
- B. Prior to implementation of the existing County procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the Owner and Operator, setting forth the alleged default(s). Such written notice shall provide the Owner and Operator a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default(s) or.

C. If after the 60 (sixty) day period: (I) the Applicant, Owner, or Operator has not cured the alleged default, or (ii) the County determines in its discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the existing Mercer County Wind Energy Ordinance provisions at Sec 2.14 addressing the resolution of such default(s) shall govern.