

CICERO UNIFIED DEVELOPMENT ORDINANCE UPDATE

6.9.2021



UNIFIED DEVELOPMENT ORDINANCE OUTLINE – CHAPTER 114

Article III. General Development Standards

A. Division 1: Development Standards of General Applicability

1. Building on a Lot

- a. In all residential and commercial districts, except in the case of planned developments and municipal complexes, not more than one principal detached building shall be located on a lot.

2. Exceptions to Minimum Lot Area and ~~Width~~

- a. The minimum lot area and lot width requirements shall not apply where a lot of record at the time of the effective date of this ~~ordinance~~Chapter has less area or width than ~~herein~~ required in the zoning district in which it is located. ~~A lot of record~~ ~~Said lot~~ may nevertheless be used for any use permitted in the district in which it is located.

Commented [K51]: Should this exception be continued or deleted with the newer Substandard Lot regulations in place?

3. Substandard Lots

- a. In the case of any lot which is substandard in area by the terms of this ~~ordinance~~Chapter, but once was considered legally buildable and thereafter singly and separately held in fee ownership, the rights acquired or existing therein, for the use of the lot as a buildable parcel, shall terminate and become nonexistent and void should the substandard lot be joined in fee with any adjoining land, thereby creating a parcel to conform with the area requirements of the ~~ordinance~~Chapter, or thereby enlarging a parcel already conforming with such requirements. Such merger shall be deemed to occur when the same person or persons acquire, obtain, or have fee ownership in both parcels whether by purchase, sale, demise, gift, or otherwise.

4. Allowable Use of Land or Building

- a. The following uses of land, buildings, or structures are allowed in the districts indicated hereinafter.
 - (1) Use lawfully established and existing on the effective date of this ~~ordinance~~Chapter.
 - (2) Uses lawfully established and existing on the effective date of this ~~ordinance~~Chapter, rendered nonconforming by the provisions herein, shall be subject to the regulations of ~~subsection L~~Section XXXX of ~~Division XX~~this section.
 - (3) Permitted uses as designed in **Article XXXX**.
 - (4) Special uses as designed in **Article XXXX**.

5. Control Over Use

- a. No building or premises shall hereafter be used or occupied, and no building or structure, or part thereof, shall be erected, raised, moved, reconstructed, extended, enlarged, or altered, except in conformity with the regulations specified for the district in which it is located.



6. Control Over Bulk

- a. Except in the case of planned development, all new buildings shall conform to the bulk regulations established herein for the district in which each building is located. Further, no existing building shall be enlarged, reconstructed, structurally altered, converted, or relocated in such manner as to conflict with bulk regulations of this ~~ordinance~~ Chapter for the district in which such building shall be located.

7. Accessory Buildings and Uses

a. General Provisions for Accessory Structures

(1) Construction Phasing and Use

- ~~(1)(a)~~ Accessory uses shall be compatible with the principal use and shall not be established before the establishment of the principal use, except as allowed on Accessory Lots in Section XXXX, and shall not include the keeping, propagation, or culture of pigeons, poultry, or overstock, whether or not for profit.

(2) Location

- (a) No accessory building, unless it is structurally a part of the principal building and unless it conforms with requirements of accessory buildings for special uses, shall be erected or altered at, nor moved to, a location within ten feet (10') of the nearest wall of the principal building, nor within the required area for front or side yard of the lot, as set forth for in the zoning district.

- i) In residential districts, an accessory building in a rear yard shall be not less than five feet (5') away from any property line, except fences and walls, unless otherwise established by this Chapter.

~~(2)ii)~~

- ~~(a)(b)~~ No accessory building shall encroach upon that side yard of a corner lot which is adjacent to the street, nor upon that side yard of a reversed corner lot which is adjacent to the street, nor upon the rear yard of a through lot.

(3) Accessory Building Height

- ~~(3)(a)~~ No accessory building shall have more than one story nor exceed 17 feet in height unless otherwise permitted as accessory to business and manufacturing uses or to authorized special uses.

- b. Accessory Uses and Structures Table. Table XXXX includes accessory uses and structures that may be located in required yards in accordance with the following designations:

- (1) F = Yards adjoining streets
- (2) S = Interior side yards
- (3) R = Rear yards

Commented [KS2]: This restriction may be overly burdensome on a lot that has frontage on two streets. Suggest clarifying that the restriction should apply to the structures placed within the front yard setback adjacent to a street and not the entire rear yard.

Commented [KS3]: Clarify the height limits for accessory structures in business and manufacturing districts.



<u>Accessory Use or Structure</u>	<u>F</u>	<u>S</u>	<u>R</u>
<u>Arbors, Pergolas, Cabana, Trellises not attached to the principal structure</u>			<u>X</u>
<u>Awnings or canopies, projecting not more than 3 feet into the required yards of residential districts</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Balcony</u>	<u>X</u>		<u>X</u>
<u>Bay Window, projecting not more than 3 feet into the required yards</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Canopies, commercial and manufacturing districts only</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Compost Bin</u>			<u>X</u>
<u>Deck</u>			<u>X</u>
<u>Dog Run</u> <u>a. Dog runs shall be permitted in rear yards only with the approval of the Planning and Zoning Commission after notice and a public hearing. The Planning and Zoning Commission shall review the location concerning its effect on surrounding residences.</u>			<u>X</u>
<u>Fire escapes, open and enclosed, not encroaching more than 5 feet, except 3.5 feet into a required interior side yard</u>		<u>X</u>	<u>X</u>
<u>Flagpoles</u> <u>a. Flagpoles must be located at least 5 feet from the lot line.</u> <u>b. Number. A maximum of three flag poles is allowed per zoning lot.</u> <u>c. Height. The maximum height of a flagpole is 30 feet in residential districts and 40 feet in non-residential districts</u>	<u>X</u>		<u>X</u>
<u>Garages or carports, detached</u> <u>a. Alley Orientation. Where an alley exists adjacent to the side or rear lot line, all motor vehicle access to a garage must occur through the alley.</u>			<u>X</u>



<u>Accessory Use or Structure</u>	<u>F</u>	<u>S</u>	<u>R</u>
<u>Generators, not less than 5 feet from designated lot lines visually screened, subject to screen requirements of Article XX, Section XX</u>			X
<u>Growing of garden crops in the open</u>		X	X
<u>HVAC equipment including air conditioning units, not less than 5 feet from designated lot lines, subject to screening requirements of Article XX, Section XX</u>			X
<u>Lawn furniture, such garden structures as benches, sundials, fountains, and water features</u>	X		X
<u>Open off-street loading spaces in commercial and manufacturing districts</u>		X	X
<u>Open off-street parking spaces may be permitted in a required yard adjoining an alley.</u>			X
<u>Ornamental lights</u>	X		X
<u>Playground equipment and playhouses</u>			X
<u>Sheds and storage structures for garden equipment and household items. One shed is allowed per zoning lot, and shall not exceed 200 square feet</u>			X
<u>Solar panels, ground-mounted (photovoltaic or thermal collectors) not less than 5 feet from lot lines</u>			X
<u>Stairs or Stoop</u>	X	X	X
<u>Steps and/or required egress ramps, open</u>	X	X	X
<u>Swimming pools, hot tubs</u>			X
<u>Patios, decks and outdoor fireplaces</u>			X
<u>Wind Energy Systems – ground-mounted in commercial and manufacturing districts only</u>	X	X	X



- d. **Dish Antenna.** A dish antenna shall be permitted as an accessory structure, provided:
- (1) It is located in a rear yard, and:
 - (a) For a corner lot, it is set back from a street line not less than the distance the principal building is set back,
 - (b) Its diameter does not exceed ten feet,
 - (c) Its height does not exceed 12 feet,
 - (d) It is located not less than five feet from any lot line abutting a residential district,
 - (e) Seventy percent of its surface area is screened from any street line in a residential district by a well-maintained masonry wall of brickwork or stonework, solid wood fence, densely planted compact hedge, or berm and hedge,
 - (f) It is a neutral color comprising shades of black, white, grey, or beige, and,
 - (g) It is not labeled with any advertisements or logos; or
 - (2) It is located on the roof of a primary or accessory building, and:
 - (a) If located on the roof of a principal or attached accessory building, it is placed on that half of the roof which is farthest from the street line,
 - (b) Its diameter does not exceed five feet in R-1 or R-2 districts or ten feet in any other zoning district provided it is closer than 25 feet to a residential district,
 - (c) Its total height does not exceed either the maximum height of the district in which it is located or 12 feet above the height of the building on which it is located, whichever is less, and
 - (d) It is of a neutral color comprising shades of black, white, grey, or beige.
 - (3) No more than one dish antenna is located on a zoning lot.
 - (a) Dish antennas exceeding this Section's provisions may be erected by special use permit, provided the zoning board of appeals determines it is impractical to construct the dish antenna in accordance with this Section's provision, and that the dish antenna will not unduly detract from the character of the neighborhood or the enjoyment of adjacent properties.
 - (b) Any nonconforming dish antenna shall either be removed or brought into conformance with the provisions of this section whenever the ownership of either the dish antenna or the real property on which the dish antenna is located, is transferred to another owner.

8. Permitted Obstructions in Yards

~~a. For the purpose of this ordinance Chapter, the following shall not be considered as obstructions when located in the yards indicated:~~

~~(1) In Any Yards. Chimneys, overhanging roof eaves, open terraces, marquees, and awnings adjoining the principal building if they do not exceed ten percent of the depth of the yard, and ornamental light standards and flagpoles, and trees and shrubs. On corner lots obstructions and trees and shrubs not higher than 24 inches above curb level if located in that 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.~~

~~(2) In Front Yards. No obstructions shall be permitted.~~

Commented [KS4]: This prohibition conflicts with the allowances for permitted uses in yards in Section 4 – Residential Districts. Recommend removing this Section and combining with existing standards in Section 4 to avoid duplication and conflicting requirements



~~(3) In Side Yards. Open accessory off street parking spaces except in a side yard abutting a street.~~

~~(4) In Rear Yards. Private garages, if attached or structurally a part of the principal building, private garages, detached; open accessory off street parking spaces, accessory sheds, tool rooms, or other similar accessory buildings; recreational and laundry drying equipment; arbors and trellises; fences constructed in accordance with the Town of Cicero Code of Ordinances, except in manufacturing districts; and a side yard which adjoins a street shall be considered as a front yard. Accessory buildings or structures may occupy not more than 30 percent of a rear yard. For purposes of this section, decks with total area of less than ten percent of total lot area are not accessory structures.~~

~~9.8.~~ Yards, General

- a. The minimum yard space required for one structure shall not again be considered as yard space for another adjoining structure.
- b. No lot shall be reduced in area so that the yards or other open space become less than required by this ~~ordinance~~Chapter.
- c. On-street where a front-yard setback has been maintained for buildings existing on lots or tracts having a frontage on one side of that portion of any street lying between two intersecting streets, ~~there shall maintained~~ a front-yard setback of not less than the average of the aforementioned existing buildings ~~shall be maintained~~, but not less than ten feet.
- d. On a vacant through or corner lot, either of the lot lines abutting a street right-of-way may be established as its front lot line, except that where two or more through lots are contiguous and a front lot line has been duly established, the same street lot line shall thereafter be deemed to be the front lot line of all such contiguous lots. On a through lot a front yard shall be provided along any lot line abutting a street.

~~10.9.~~ Height Regulations Near Airports

- a. The following special height limitations shall apply to areas within three miles of the boundary lines of Midway Airport.
 - (1) Within 7,500 feet from the nearest airport boundary, no building structure or portion thereof shall exceed a height above curb level of 25 feet or one foot for every 50 feet that such building or structure is distant from such boundary, whichever height is greater.
- b. Between 7,500 feet and two miles from the nearest airport boundary, no building, structure, or portion thereof, shall exceed a height above curb level of 150 feet.
 - (1) Between two miles and three miles from the nearest airport boundary, no building, structure, or portion thereof shall exceed a height above curb level of 150 feet plus one foot for every 40 feet that such building or structure is more distant than two miles from such airport boundary.

~~11.10.~~ Industrial Performance Standards

- a. Noise level, smoke emissions, open burning, and odor controls shall be as promulgated by the Environmental Protection Agency, State of Illinois, as from time to time amended and are adopted as if fully and expressly set forth herein.



- b. Any use established in a manufacturing district hereinafter shall be operated in such manner as to comply with applicable performance standards as hereinafter set forth governing noise, smoke, particulate matter, toxic or noxious matter, odors, fire, and explosive hazards, or vibration, or the glare of heat; and no use already established on the effective date of this ordinanceChapter shall be so altered or modified as to conflict with such applicable performance standards. Certification from a testing laboratory, approved by the Town Board, indicating compliance with the applicable performance standards shall accompany the application for a building permit.
- c. No lot, parcel, or tract of land shall be used, and no building or structure shall be erected, altered, or remodeled for any of the following uses: abattoirs; manufacture of acid; arsenals; crematories, manufacture or treatment of creosote; fat rendering; manufacture of fertilizer; manufacture or storage of fireworks or explosives; dumping or reduction of garbage, dead animals, offal or refuse; processing refining of petroleum; ore reduction; manufacture of nitrocellulose; manufacture of synthetic polymers; manufacture or treatment of gutta-percha; salt works; manufacture of sauerkraut; manufacture of soap; smelters; stockyards or slaughter of animals or fowl; manufacture or treatment of tallow, grease or lard; tanning, curing, or storage of rawhides or skins; distillation of tar; or batch asphaltic concrete and Portland cement concrete mixing plants.
- d. No activities involving the storage, utilization, or manufacture of materials or products which decompose by detonation shall be permitted, except such as are incident to manufacturing processes. Such materials shall include but shall not be confined to all primary explosives such as lead azide, lead styphnate, fulminates, and tetrocene; all high explosives such as TNT, RDX, HMX, PETN, and picric acid; propellants and components thereof such as cellulose nitrate of nitrogen content of 12.5 percent or greater, black powder, boron hydrides, hydrazine, and its derivatives, pyrotechnics and fireworks such as magnesium powder, potassium chlorate, and potassium nitrate; blasting explosives such as dynamite and nitroglycerine, unstable organic compounds such as acetylides, tetrazoles, perchloric acid; perchlorates, chlorates, hydrogen peroxide in concentrations greater than 35 percent; and nuclear fuels, fissionable materials, and products and reactor elements such as Uranium 235 and Plutonium 239.

12-11. Accessory Lots

- a. **Accessory Lots: R-1 Single-family Residential District, R-2 Multiple-family Residential District:**
 - (1) Permitted Uses
 - (a) Enclosed garages for neighboring single-family detached homes, if the lots are owned by a common person or entity.
 - (b) Gazebos, open spaces, parks and playgrounds, publicly owned and operated.
 - (2) Special Uses
 - (a) Parks and playgrounds, publicly owned and operated.
 - (3) Lot Area
 - (a) No greater than 3,000 square feet
 - (4) Lot Width
 - (a) Not less than 25 feet.

Commented [K55]: This section moved from Section 4 – Residential Districts.



- (5) Floor Area Ratio - Nonresidential Permitted Use and Special Uses
 - (a) Not to exceed 0.25.
- (6) Building Height—Garages and Gazebos
 - (a) Not to exceed 12 feet.
- (7) Lot Coverage
 - (a) No building shall occupy more than 25 percent of the lot area.
- (8) Front Yards
 - (a) **Front yard—Garages and Gazebos**
 - i) No less than 25 feet in depth.
- (9) Permitted Uses in Front Yard
 - (a) **Flagpoles**
- (10) Side Yards—Single-Family Dwellings. None.
- (11) Permitted Side Yard Obstructions. None.
- (12) Rear Yard—Single-family Dwellings
 - (a) No less than 12 feet deep.
- (13) Off-street Parking. In all instances, **Section 7** of the Cicero Zoning Ordinance shall control and dictate.
- (14) Adherence to ordinanceChapter. The intent of the Town in establishing these provisions regarding the lots applicable hereto is to provide for the development of residential lots in accord with the standards set forth above. All of the standards set forth above have been determined by the corporate authorities to be fair and reasonable for the development of the lots. The Town has considered the possibility of altering or varying the aforementioned standards and has determined that any variation from the aforementioned standards is not in the best interests of the Town or its residents and that the variation from the aforementioned standards will alter the essential character of the locality and would not serve to remedy a unique blight upon a landowner.

13.12. Outdoor Lighting Standards

a. Applicability

- (1) Outdoor lighting standards prevent light trespass, promote energy efficiency, minimize light pollution, and enhance public safety. The requirements of this Section apply to all new or replacement outdoor lighting, except for unshielded lighting for holiday decorations or permitted temporary uses as established in Section XXXX (Temporary Structures and Uses). The Zoning Administrator may impose reasonable restrictions on the use of such lighting for temporary uses as necessary to protect the health, safety, and welfare of the public.

b. General Requirements

(1) Photometric Plan

- (a) A photometric plan prepared by a professional must be approved by the Zoning Administrator before the installation of outdoor light fixtures for non-residential uses.

Commented [KS6]: This section only requires administrative review by staff.



(2) Prohibited Lighting

(a) Any outdoor lighting that may be confused with a traffic control device is prohibited except if it is authorized by federal, state, county, or local government. Flashing lights, strobe lights, and laser lights are prohibited.

(3) Design That Prevents Glare

(a) All lighting must be designed to prevent glare and interference with residential lots and motor vehicle, bicycle, and pedestrian traffic.

(4) Fixtures

(a) All new and replacement outdoor lighting must employ full cut-off or fully shielded fixtures.

c. Façade Illumination

(1) Building façade illumination must be limited to fully shielded fixtures directed towards the façade. All light from such fixtures must be concentrated on the exterior wall surface of the building being illuminated.

b-d. Automatic Lighting Control

(1) All outdoor lighting on non-residential lots must be controlled by a photosensor, occupancy sensor, or timer to automatically reduce outdoor lighting when sufficient daylight is available and to automatically extinguish lights no more than one hour following the close of business, excluding security lighting.

e. Energy-Efficient Technology

(1) The use of Light Emitting Diodes (LED) or similar technology is encouraged.

f. Illumination Standards

(1) Non-Residential Uses

(a) Outdoor lighting must not exceed one foot-candle at any point on a lot line for a lot containing a non-residential use unless otherwise specified in this Chapter. Manufacturing uses that operate overnight may exceed one foot-candle of illumination with prior approval of the Zoning Administrator.

(b) Light fixtures mounted under gas station canopies must be completely recessed into the canopy with flat lenses that are translucent and completely flush with the bottom surface (ceiling) of the canopy.

(2) Residential Uses

(a) Outdoor lighting must not exceed one-half foot-candle at any point on a lot line for a lot containing a residential use unless otherwise specified in this Chapter

(3) Sign Illumination

(a) Sign illumination must conform to the provisions of Division XX (Signs).

(b) Non-Residential Uses

i) Light poles and building-mounted fixtures must not exceed 20 feet in height in business districts and 30 feet in manufacturing districts.

(c) Residential Uses

i) Light poles must not exceed 15 feet in height for residential uses. Building-mounted fixtures, including under-soffit lighting, must not exceed 10 feet in height.

Commented [KS7]: This standard moved from the Roosevelt Road corridor regulations.



~~e.g.~~ Exemptions

~~d.~~(1) The following are expressly exempt from the outdoor lighting regulations of this Section:

- ~~e.~~(a) Security lights controlled and activated by motion sensor devices for ~~a duration~~ of 15 minutes or less;
- ~~f.~~(b) Outdoor lights on lots occupied by residential buildings containing fewer than 4 dwelling units;
- ~~g.~~(c) Temporary holiday light displays;
- ~~h.~~(d) Municipal street lighting systems;
- ~~i.~~(e) Lighting of official government flags;
- ~~j.~~(f) Lights associated with public parks and recreation facilities; and
- ~~k.~~(g) Construction and emergency lighting used by construction workers or police, firefighting, or medical personnel, provided the lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency requiring the lighting.

~~k.h.~~ Prohibited Lights

- (1) Flashing, revolving, or intermittent exterior lighting visible from any lot line or street is prohibited.
- (2) ~~High-High~~-intensity light beams, such as outdoor searchlights, lasers, or strobe lights are prohibited.

~~14.13.~~ Fences

a. Permit Required

- (1) It shall be unlawful to erect or alter any fence within the Town unless a permit has been issued by the ~~director of code enforcement~~ in accordance with the provisions of this article. A written application for such permit shall be filed with the ~~code enforcement department~~ and shall include plans to scale, a spot survey and specifications showing the work to be done, the individual or company performing the work, and the location of the proposed fence on the owner's premises.

b. General Requirements Applicable to all Fences

- (1) No fence shall be constructed which by nature of the material used for its construction or by its location would impair public protection services or would impair public safety by obstructing the vision of persons using the streets, sidewalks, or driveways adjacent to the lot upon which the fence is proposed to be constructed.
- (2) All fences shall be constructed so that the structural elements are located on the side of the fence facing toward the property upon which the fence is constructed.
- (3) Fences shall be designed and constructed to resist a horizontal wind pressure of not less than 35 pounds per square foot, in addition to all other forces to which they may be subjected.
- (4) Fences shall be located wholly on the owners' property and shall be located no less than four inches inside of the property line.
- (5) Back-to-back fences are prohibited. Back to back fences shall mean parallel fences that are located no more than four feet apart.

Commented [KS8]: This Section is moved from Article VII of Chapter 22 of the Town Code

Commented [KS9]: Should this be the Building Commissioner or Zoning Administrator



- (6) No fence shall be erected which will block any fire hydrant.
- (7) Before erecting a new fence on any property, existing fences for which the new fence acts as a replacement must be removed before erecting the new fence
- c. **Barbed, Razor Wire and Electrically Charged Fences Prohibited**
 - (1) The use of barbed wire, razor wire, or electrically charged fences is prohibited. However, barbed wire may be used in the following circumstances:
 - (a) In manufacturing districts, as defined by ~~this e-Town zoning ordinance~~ Chapter, but at a height of not less than eight feet (8') above ground level.
 - (b) In other districts by a variation from the ~~zoning board of appeals~~ Planning and Zoning Commission as provided in ~~the town zoning ordinance~~ Chapter and after notice and a public hearing, and only if the ~~zoning board of appeals~~ Planning and Zoning Commission finds that the barbed or razor wire fence is required for the protection of the health, safety, and welfare of the residents of the Town.
- d. **Height.**
 - (1) Table XXXX Maximum Fence Height provides maximum height requirements for fences by zoning district. Maximum fence heights shown are for both open fence and solid fence designs unless otherwise noted. The maximum height of a fence or wall is measured from the ground at the base of the fence or wall.

Table XXXX: Maximum Fence Height

Zoning District	Yard	Maximum Fence Height
R-1, R-2, R-3, R-4	Front	Prohibited All existing front yard fences must be non-locking
	Interior Side	6 ft adjacent to residential districts 7 ft adjacent to non-residential districts
	Rear	6 ft adjacent to residential districts 7 ft adjacent to non-residential districts
C-1, C-2	Front	Prohibited
	Interior Side	8 ft adjacent to residential districts 8 ft adjacent to on-n-residential districts
	Rear	8 ft adjacent to non-residential districts 8 ft adjacent to residential districts
M-1, M-2, M3	All Yards	8 ft

Commented [KS10]: Residential standards are currently in Section 22-320 of the Town Code. The Definitions in this Section will be moved to Article 9 of the UDC

Commented [KS11]: Recommend revising to 8 ft. to match the requirements for commercial and manufacturing uses.



e. **Access**

(1) Every fence with frontage on a right-of-way, except for corner lots, must include a gate that provides access to the right-of-way.

f. **Construction, Design, and Appearance**

(1) In all zoning districts, both sides of a fence or wall must be similar in construction, design, and appearance. The finished side of a fence or wall must face outward from the zoning lot so that all posts are located on the property owner's side of the fence or wall.

g. **Residential Districts**

(1) In residential zoning districts, fences may be constructed of vinyl-coated chain link for parks and schools only.

(2) Side and Rear Yard Fences. Side and rear yard fences shall be allowed in residential districts, so long as they comply with the following factors:

- (a) The fence is constructed from wood, chain link, PVC, or wrought iron.
- (b) There is at least fifteen feet (15') between the building on the lot where the fence is to be located and the building on the neighboring property
- (c) The fence must be non-locking

(3) In residential zones, all junkyards, used car lots, fleet storage lots, mechanic shops, auto-body shops, tire shops, landscapers, and equipment storage lots shall have all vehicles, parts, and equipment stored within a completely enclosed structure or an area screened by a wall, solid fence, structural fence, a fence screened with opaque noncombustible material, or closely planted shrubbery at least six feet (6') high and of sufficient density to block the view from an adjacent property.

h. Except as provided in the preceding Sections, the height of a structural fence, which shall mean a fence that is built on a concrete footing, in a residential area shall not exceed ~~five~~ six feet (6'), as measured from the average ground level of both sides of the fence. However, a structural fence may be erected at a height not greater than seven feet (7') in the following circumstances:

- (1) Along the lot line of residential property that separates such property from any property being used for commercial or manufacturing uses, ~~as defined in the zoning ordinance;~~ and
- (2) Along a railroad right-of-way.

i. A privacy fence around a patio or first-floor deck shall be permitted to a height of five feet (5') as measured from the floor of the deck or the ground from the floor of a patio. A privacy fence around any deck other than a first-floor deck shall not be permitted. All such deck or patio fences shall comply with all relevant provisions of the Town Code and this Chapter. Back-to-back fences, including but not limited to a patio or deck fence, shall not be allowed.

j. A current, accurate plat of survey is required for all fence permit applications, showing the location of the proposed fence and any existing fences.

k. A fence permit application requesting the removal of a fence must be signed by the owner of the fence.

Commented [KS12]: There appears to be a conflict with this section and the requirements above.

Commented [KS13]: This requirement conflicts with the standard for commercial and manufacturing districts as provided below.



i. **Non-Residential Districts**

(1) **Fences in Commercial and Manufacturing Districts**

- (a) The height of any fence located in a commercial or manufacturing zoning district ~~as defined by the town zoning ordinance~~ may not exceed eight feet (8') as measured from the average ground level on both sides of the fence.
- (b) Open lots in commercial and manufacturing districts shall be fenced according to **Section XXXX** (Open Lots and Maintenance of Existing Fences).
- (c) In commercial districts only, front yard fences are prohibited, except in the case of open lots.
- (d) In commercial and manufacturing districts, all junkyards, used car lots, fleet storage lots, mechanic shops, auto-body shops, tire shops, landscapers, and equipment storage lots shall have all vehicles, parts, and equipment stored within a completely enclosed structure or within an area screened by a wall, solid fence, structural fence, a fence screened with opaque noncombustible material or closely planted shrubbery at least eight feet (8') high and of sufficient density to block the view from an adjacent property.
- (e) Upon business license renewal, all businesses shall present printed photographic evidence of compliance with this ~~section and with article VII – Fences~~ **Section**, generally. Failure to present such printed photographic evidence in a form sufficient to the Town and sufficient to demonstrate compliance, the Town may deny or delay issuance of the license until sufficient evidence is presented or may issue a conditional license in the event of noncompliance.

(2) ~~In non-residential zoning districts, fences and walls may be constructed of treated wood, simulated wood, vinyl-coated chain link, metal mesh, corrugated metal, decorative metal, brick, stone, cinderblock, and concrete block.~~

m. **Open Lots and Maintenance of Existing Fences**

- (1) It shall be the duty of the owner of any open lot located within the Town to cause the lot to be surrounded with a noncombustible screen fence six feet (6') in height. This section shall not apply to units of local government or any governmental agencies.
- (2) The property owner shall be responsible for the maintenance of any fence located on his property. Any fence which is not maintained in a safe condition according to the director of code enforcement may be declared a nuisance.
- (3) ~~Any person found in violation of this section shall be fined not less than \$100.00 nor more than \$750.00 per day that such violation continues. In~~ addition to any other fine or penalty, any person who violates this section shall be liable to the Town for the costs incurred by the Town in abating such nuisance.

Commented [KS14]: This section should be reviewed to determine current practice in Cicero.

Commented [KS15]: Recommend removing all fines from the UDC.



(4) A screen fence is a fence so constructed that 50 percent of the superficial area thereof consists of regularly distributed apertures. However, all junkyards, used car lots, fleet storage lots, mechanic shops, auto-body shops, tire shops, landscapers, and equipment storage lots shall have all vehicles, parts, and equipment stored within a completely enclosed structure or an area screened by a wall, solid fence, structural fence, a fence screened with opaque noncombustible material or closely planted shrubbery at the height provided for in **Sections XXXX** (Fences in residential zones) and **XXXX** (Fences in commercial and manufacturing districts). Any fence not constructed entirely of noncombustible materials shall be considered a combustible fence.

n. **Dog Runs**

(1) Any dog run with any type of cover over the top shall be a maximum of 100 square feet. A dog run constructed higher than five feet in accordance with **subsection (3)** of this section shall be a maximum of 100 square feet.

(2) The height of a dog run shall be as permitted **for all fences** in the zoning district unless it is constructed entirely of chainlink, which may be eight feet **(8')** high.

o. **Nonconforming Fences**

(1) All fences which are in existence at the time of passage of this **Chapterarticle**, but which do not conform to one or more applicable provisions of this **Chapterarticle** shall be allowed to remain until they are damaged or removed. If repaired or replaced, the entire fence shall be required to comply with the provisions of this **Chapterarticle**.

p. **Administrative Variance**

(1) The Zoning Administrator, after public notice, may vary the provisions of this **article Section** in cases in which there are, because of an exceptional situation, topography, surroundings or conditions of a specific piece of property, or because of exceptional narrowness or shallowness, difficulties or particular hardship, provided that such variation will not impair an adequate supply of light and air to adjacent property or endanger the public safety, or unreasonably diminish, or impair established property values within the surrounding area, or in any other aspect impair the public health, safety, comfort, morals or welfare of the inhabitants of the Town.

~~(1)(2)~~ **(2)** A written application for a variance under this Section shall be filed with the ~~department of law upon such form as may be required. The applicant shall provide written notice of the filing of such application to the owners of all contiguous property and also to the owners of all property located across a street or alley immediately opposite to the property which is the subject of the application, via certified mail. Such notice shall show the date of the filing of the petition, a description of the type of fence, the nature of the variation requested and advise the recipient of his right to express his view on the requested variance by contacting the zoning administrator no later than two weeks following the date of the letter. The applicant shall provide copies of the certified receipts as proof that the required notice was sent. Zoning Administrator in accordance with the application procedures for all Administrative Adjustments in Article II, Division 4.~~



q. **Violations, Removal of Illegal Fences**

(1) In any case where a fence is erected which does not conform to the requirements of this ~~Section~~ article, and has not been granted a variance, or an existing fence is not adequately maintained ~~so as~~ to present a threat to the health, safety, and welfare, the ~~director of code enforcement~~ may notify the property owner using certified mail that the fence is illegal and shall require that the fence be brought into conformance within 30 days. If the property owner refuses or neglects to bring the fence into compliance after the expiration of the 30-day period, which may be extended by the ~~director of code enforcement~~ for cause, the ~~director of code enforcement~~ or his/~~her~~ designee is hereby authorized to remove the illegal fence. Costs incurred in such removal shall be the responsibility of the property owner and shall be recorded as a lien against the property. ~~In addition, a minimum fine of \$50.00 and a maximum fine of \$250.00 shall be imposed for violations of this article.~~

Commented [KS16]: Should this be the Building Commissioner?

r. **Prohibition on Locking Gates**

(1) All existing fences which completely encompass a residence and have a height of greater than four feet (4'), and all existing fences with a height of greater than four feet (4') located in the front yard of a residence, that have locking gates must have the lock removed from the gate or replace the locking gate with a non-locking gate. In the case of existing fences that completely encompass a residence and have a height of greater than four feet (4'), it will be deemed sufficient if the lock is removed from the front gate only or the front gate is replaced with a non-locking gate. It is permissible to use latches instead of locks to shut the gate securely, so long as such latches are freely operable by persons on both sides of the gate, without the use of a key. ~~A minimum fine of \$50.00 shall be imposed for violations of this section. A maximum fine of \$500.00 shall be imposed for violations of this section.~~

s. **Specific Material**

(1) ~~Electrically charged security alarm fences are allowed. Electrically charged stun/lethal fences are prohibited~~

~~(2)~~ Plastic snow fences may be used temporarily during times of snow cover at the discretion of the Zoning Officer.

B. Division 2: Personal Wireless Telecommunications Facilities

1. Purpose and Interpretation; Procedure; Definitions

a. The purpose of this ~~Section~~ Division is to provide specific regulations for the placement, construction, and modification of personal wireless telecommunications facilities. The provisions of this ~~Division~~ Section are not intended and shall not be interpreted to prohibit, or have the effect of prohibiting the provision of personal wireless services, nor shall the provisions of this ~~Division~~ Section be applied in such manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services. To the extent that any provision or provisions of this ~~Section 2(4)~~ Division are inconsistent with any other provision of this ~~ordinance~~ Chapter, the provision of this ~~Section 2(4)~~ Division shall be deemed to control.



- b. In the course of reviewing any request for any approval required under ~~this~~ Chapter made by an applicant to provide personal wireless service facilities, the ~~zoning board of appeals~~ Planning and Zoning Commission or the Board of Trustees, as the case may be, shall act within a reasonable time after the request is duly filed with the Town, taking into account the nature and scope of the request, and any decision to deny such a request shall be made in writing and supported by substantial evidence.
- c. Should the application of this ~~section 2(4)~~ Division have the effect of prohibiting a person or entity from providing personal wireless service to all or a portion of the Town, such provider may petition the board of trustees for an amendment to this section in the manner provided in the ~~ordinance~~ Chapter. The Board of Trustees, upon receipts of such petition, shall promptly undertake a review of the petition and shall decide on the petition within a reasonable time, taking into account the nature and scope of the petition, and any decision to deny such a petition shall be in writing and supported by substantial evidence.
- d. The terms "personal wireless service" and "personal wireless service facilities" used in this ~~section~~ Division, shall be defined in the same manner as in Title 47, United States Code, Section 332(c)(7)(c), as amended.

2. Permitted Placement of Personal Wireless Facilities

- a. A public utility service use that satisfies the definition of personal wireless service facilities, shall be considered a special use, whether principal or accessory and shall not require a height variation where:
 - (1) The personal wireless service facilities are located on property zoned M-1, M-2, M-3, C-2 (but only if the provider is seeking to locate at a property where there is an existing personal wireless service facility), R-1 or R-2, provided, if in an R-1 or R-2 district, the personal wireless service facilities are located on property in which 100 percent of the use thereof is nonresidential and noncommercial and, further provided, that the requirements described in Section 2(l)(3)(a) hereof are satisfied.
 - (2) The personal wireless service facility otherwise conforms to all minimum set back and yard requirements of this ~~ordinance~~ Chapter and also conforms to all applicable federal laws and regulations concerning its use and operation; and
 - (3) The personal wireless service facility is directly affixed to an existing building, or the height of the personal wireless service facility does not exceed ten feet (10') above the roof of an existing building if the personal wireless service facility uses a roof-mounted antenna pole, or the height above grade of the personal wireless service facility does not exceed 73 feet if mounted on a free-standing antenna pole.
- b. A public utility service use that satisfies the definition of personal wireless service facility shall be considered a special use, whether principal or accessory and shall require a height variation for that portion of the height of the personal wireless service facility above the maximum height requirements set forth in Section 2.1.2.a.(3) provided that the facility satisfies the other requirements set forth in Section 2.1.2.a.



- c. In considering a request for approval of a special use or variations to permit the installation of personal wireless service facilities as described in this section, the ~~zoning board of appeals~~ Planning and Zoning Commission or Board of Trustees, as the case may be, shall in addition to the standards for special use and variations set forth in this ~~ordinance~~ Chapter, give due consideration and weight to whether the plans submitted will provide for co-location of another personal wireless service requirement on the same structure, to minimize the proliferation of antenna-supporting structures.
 - d. In considering a request for approval of a special use or variations to permit the installation of personal wireless service facilities as described in this section, the ~~zoning board of appeals~~ Planning and Zoning Commission, or the Board of Trustees, as the case may be, shall in addition to the standards set forth for special uses or variations in this ~~ordinance~~ Chapter, also give due consideration and weight to whether the applicant has sought and has been denied the opportunity to co-locate its personal wireless service facility on an existing antenna supporting structure;
 - e. In considering a request for approval of a special use or variations to permit the installation of personal wireless service facilities as described in this section, the ~~zoning board of appeals~~ Planning and Zoning Commission, or the Board of Trustees, as the case may be, may ~~express condition~~ require that the applicant shall allow, on a commercially reasonable basis, other providers of personal wireless telecommunications services to co-locate additional personal wireless facilities on a free-standing pole which is part of the applicant's proposed personal wireless service facility, where such ~~a~~ co-location is technically feasible.
 - f. If a public utility service use that satisfies the definition of personal wireless service facility desires to co-locate its personal wireless service facilities on existing antenna-supporting structures, including those deemed nonconforming under this section, such use shall require approval of the Zoning Administrator. Any denial of such request shall be made in writing and supported by sufficient evidence.
3. Prohibited Placement of Personal Wireless Facilities
- a. Personal wireless facilities shall be deemed a prohibited use in R-3, R-4, C-1, and C-2 districts. Further, they shall be deemed a prohibited use in R-1 and R-2 districts, unless:
 - (1) The personal wireless facilities are located on property in which 100 percent of the use thereof is nonresidential and noncommercial, regardless of the zoning classification of said property; and
 - (2) The design of such personal wireless facilities is a "stealth" design (including, without limitation, a flagpole design with a flag atop the pole) if a monopole structure, or is such that the personal wireless facilities are completely screened if affixed to a building or located on a roof-mounted pole, so that, in any event, all antennas and other equipment related to the personal wireless facilities are camouflaged, concealed, disguised and otherwise not readily recognizable as telecommunications equipment.
 - b. No variation or special use permit shall be granted to allow these facilities in the aforementioned prohibited zoning districts, except as provided above for R-1 and R-2 districts and except that a special use permit may be granted to allow a personal wireless facility in an area zoned C-2 when the applicant is seeking to install a facility at a property where there is already an existing facility.



- c. No public utility service use which satisfies the definition of personal wireless service facilities, as referenced in this ~~section~~Division, shall be permitted in any zoning district unless it complies with all applicable federal laws and regulations concerning its use and operation.

4. Nonconformities

- ~~a.~~ Any personal wireless service facility installed and operating before the enactment of this ~~section~~Division, which would be prohibited hereunder, shall be considered a legal nonconforming use and/or legal nonconforming structure, and shall be subject to the rules concerning these conformities provide herein.

C. Division 3: Nonconforming Land, Buildings, Structures, Uses and Lots

1. Applicability

a. Authority to Continue

- (1) Any use, structure, lot, or site element that was established legally as of the effective date of this Chapter, or its subsequent amendments, may continue as long as it remains lawful.
- (2) Any use, structure, lot, or site element that was established legally as of the effective date of this Chapter, or its subsequent amendments, and has been made nonconforming due to the regulations of this Chapter, or its subsequent amendments, is a legal nonconforming use, structure, lot, or site element and may continue subject to the provisions of this Division as long as it remains otherwise lawful.
- (3) Any use, structure, lot, or site element that was established illegally as of the effective date of this Chapter, or its subsequent amendments, will remain illegal if it does not conform with the requirements of this Chapter.

2. Nonconforming Status

- a. The legal nonconforming status of a nonconforming use, structure, lot, or site elements rests with the property and is not affected by changes in property ownership, tenancy, or management.
- b. **Burden of Establishing Legal Status**
 - (1) The burden of establishing the legal status of a nonconforming use, structure, lot, or site element under the provisions of this Chapter is the responsibility of the owner of such use, structure, lot, or site element



c. Continuance of Previously Approved Development Projects

(1) Any structure for which a building permit has been lawfully granted before the effective date of this Chapter may be completed in accordance with the plans approved, provided that construction is started within ninety (90) days, according to the permit, and diligently prosecuted to completion. The structure shall thereafter be deemed a legal nonconforming structure.

4-3. Nonconforming Uses of Land

a. In the residential districts, where open land is being used as a nonconforming use, and such use is the principal use and not accessory to the main use conducted in a building, such use shall be discontinued no later than eight (8) years from the date of passage of this ordinanceChapter. During the eight-year period, such nonconforming use shall not be extended or enlarged, either on the same or adjoining property. Any building incident and subordinate to such use of land, such as a shed, tool house, storage building, office, or trailer, shall be removed at the end of the eight-year period, or if such building is so constructed as a permit the issuance of a permit for a use not excluded from the district, such building may remain as a conforming use; thereafter both land and building shall be used only as conforming use.

Commented [KS17]: The original 8 year period has likely elapsed. Consider establishing that nonconforming uses of land existing prior to the adoption of the UDC be rendered nonconforming, and that any use of land rendered nonconforming with the adoption of the UDC be allowed an additional 8 year period.

5-4. Nonconforming Use of Buildings

a. Except as otherwise provided herein, the lawful use of a building existing at the effective date of this ordinanceChapter, may be continued, although such use does not conform to the provisions hereof. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or a conforming use, such use shall not thereafter be changed to a less restricted use. Nothing contained herein shall be interpreted to permit the structural alteration, or addition, to an existing nonconforming use.

b. A nonconforming building or structure which is nonconforming only as to bulk (building setbacks, height, coverage, or other similar zoning regulations), may be added to or enlarged, provided such additions or enlargement shall not be altered or expanded in any manner which would increase the degree or extent of its nonconformity concerning the bulk regulations of the zoning district in which it is located.

Commented [KS18]: This sectin modifies the current restrictions on additions and alterations to legal non-conforming uses to provide more flexibility for owners of these buildings to make improvements. The intent is to allow minor additions if the nonconformity is not expanded or increased and is compliant with current zoning bulk restrictions. For example, a second-story addition would be allowed on an existing nonconforming home in the R-1 single-family district if the existing home is only setback 13 feet from the street, rather than the minimum required setback of 15 feet. The second story addition would have to maintain the 13 foot setback to not increase the nonconforming front yard setback.

6-5. Discontinuance of Nonconforming Use

a. No building or portion thereof used in whole or in part for a nonconforming use in a residential district, which remains idle or unused for a continuous period of one year, whether or not the equipment or fixtures are removed, shall again be used except in conformity with the regulations of the residential district in which it is located.

Commented [KS19]:

7-6. Destruction of Nonconforming Use

a. No building which has been damaged by any cause whatsoever, to the extent of more than 50 percent of the fair market value of the building immediately before the damage, shall be restored except in conformity with the regulations of this OrdinanceChapter, and all right as a nonconforming use are terminated. If a building is damaged by less than 50 percent of the fair market value, it may be repaired or reconstructed and used as before the time of damage, provided that such repairs or reconstruction be substantially completed within 12 months of the date of such damage.

Commented [KS20R19]: Consider reducing the time to 6 months to remove undesirable uses. A 6 month period is typical of many communities in northern IL. This is the case in the City of Berwyn IL.



8.7. Special Uses Not Conforming

- a. Existing uses ~~eligible~~ for which special use permits ~~have been approved~~ shall ~~not~~ be nonconforming uses but shall require a special use permit for any alterations, enlargements, or extensions.

9.8. Intermittent Uses

- a. The casual, intermittent, temporary, or illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use on the part of a lot or tract and shall not be construed to establish a nonconforming use on the entire lot or tract.

10.9. Existence of a Nonconforming Use

- a. Whether a nonconforming use exists shall be a question of fact and shall be decided by the ~~board of appeals~~ Planning and Zoning Commission after public notice and hearing and in accordance with the rules of the Commission ~~board~~.

11.10. Nonconforming Use Not Validated

- a. A nonconforming use in violation of a provision of the ~~ordinance~~ Chapter which this ~~ordinance~~ Chapter repeals shall not be validated by the adoption of this ~~ordinance~~ Chapter.

12.11. Amortization of Nonconforming Buildings and Structures

- a. In any district, any lawfully existing building or structure, 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, shall be abated or it shall be altered, remodeled, or converted to a building or structure designed for a use permitted in the district in which it is located, shall be abated or it shall be altered, remodeled or converted to a building or structure designed for a use permitted in the district in which it is located within 180 days after the termination of the respective periods of time set forth hereafter and which are fixed as the normal useful life of said building and structures:
 - (1) Buildings or structures and all other improvements which shall on July 1, 1976, or at the end of the year following the year in which erected, whichever is the last to occur, have an assessed valuation before equalization of less than \$5,000.00 but more than \$2,000.00 in accordance with the following types of construction classification.
 - (a) Fireproof and fire-resistive construction 40 years from the date of the building permit for the construction of either the entire structure or the initial part thereof, or 30 years from July 1, 1976, whichever last occurs.
 - (b) Exterior masonry wall construction 35 years from the date of the building permit for the construction of either the entire structure of the initial part thereof or 25 years from July 1, 1976, whichever last occurs.
 - (c) Light noncombustible ordinary and frame construction—30 years from the date of the building permit for the construction of either the entire structure or the initial part thereof, or 20 years from July 1, 1976, whichever last occurs.
- b. Building or structures and all other improvements which shall on July 1, 1976, or at the end of the year following the year in which erected, whichever is the last to occur, have an assessed valuation before equalization under \$2,000.00.
 - (1) Eight years from the date of the building permit for the construction of either the entire or initial part thereof, or four years from July 1, 1976, whichever is later.

Commented [KS21]: The Town should consider if this enforcement mechanism has worked and has been implemented, or if the time period for removal of nonconforming buildings and structures should be re-established. Of note is that few communities have retained such amortization provisions. For instance, Berwyn and Brookfield do not have amortization provisions.



- c. A nonconforming use of a building or structure subject to the amortization provisions of the section shall be terminated and shall not thereafter be continued on the premises after the end of the applicable time as set forth in this Section.

D. Division 4: Design Guidelines (to be provided after revisions to zoning districts determine if this section is necessary)

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