

AN ORDINANCE OF THE VILLAGE OF CONEY ISLAND, MISSOURI, ADOPTING A REVISED ZONING AND LAND USE CODE FOR THE VILLAGE

WHEREAS, the Board of Trustees for the Village of Coney Island believe it to be in the best interests of the Village and its residents to adopt revised zoning regulations, in accordance with Missouri Law; and

WHEREAS, a Public Hearing was held on March 18, 2023, before the Planning and Zoning Commission in accordance with Section 89.050 RSMo;

NO, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF CONEY ISLAND, MISSOURI, AS FOLLOWS:

Section One: A new Zoning Code, containing Articles I through VII is hereby adopted to read as follows:

ARTICLE I. – IN GENERAL

Sec. 1-1. – General Provisions.

- (a) *Title.* These regulations shall be known and may be cited as the "Zoning Code" and may be referred to as "Zoning code," "Code," or "these regulations".
- (b) *Authority.*
 - (1) These regulations are adopted and administered pursuant to the authority granted to the Village by the state, and pursuant to the Villages police powers.
 - (2) These regulations shall apply to all properties located within the Village, and to all Village zoning districts, except as explicitly stated otherwise in this Code.
- (c) *Purpose, intent, interpretation, fees.*
 - (1) *Purpose.* In order to promote public health, safety, morals, convenience, comfort and general welfare, to conserve and preservation of personal and property rights; to secure proper use of land; to facilitate adequate and economical public improvements and services; and to lessen or avoid congestion on the public streets, the following codes are imposed on the Village of Coney Island, Missouri.
 - (2) *Intent.* The regulations set forth herein are enacted to implement the Comprehensive plan for the Village of Coney Island; to implement the land use section in all decisions which may affect the public to enhance the quality of life for the citizens of the village.
 - (3) *Interpretation.* In interpreting and applying the provisions of this code they shall be held to be the minimum requirements. This Code shall not repeal, abrogate or annul any ordinance, rule, regulation, or permit previously adopted or issued, which is not in conflict with this Code, or which shall be adopted or

issued, pursuant to the law, relating to the use of structures or premises, nor is it intended by this code to interfere with, abrogate or annul any easement, covenant or other agreements between private parties; provided, however, that where this Code imposes a more stringent standard, the provisions of this Code shall take precedence. To the extent any prior ordinance does conflict with these regulations, then such prior ordinance is hereby repealed to the extent necessary to resolve the conflict; provided, however, that any such repeal shall not invalidate the ability of the Village to pursue any enforcement action related to the prior ordinance provision.

(4) Application fees are in the amount provided in the Village fee schedule, as the same may be amended from time to time.

(d) *Administration and enforcement.* The administration, interpretation, review, and enforcement of the terms of this ordinance and shall be vested in the zoning administrator, and in the discharge of these duties, the zoning administrator shall have power of entry in, or upon any premises in all lawful manner and means. The zoning administrator shall rule on all questions regarding such enforcement and interpretation, and any party shall have the right of appeal from the zoning administrator's formal decision.

(e) *Minimum standards.*

(1) The provisions of these regulations shall be held to be minimum requirements. The Village may, in a manner consistent with these regulations, impose more restrictive standards when it finds necessary to conform any design to sound engineering, design, site restrictions, or other standards in these regulations.

(2) An applicant may, upon Village approval, construct public improvements to standards higher than the village's specifications for their design and construction. Before the village approves such higher standards, the applicant shall submit maintenance plans relating to such public improvements.

Sec. 1-2. – Conflicts.

When these regulations impose a greater restriction than imposed by other ordinances or laws, the provisions of the Zoning Code shall govern.

Sec. 1-3. – Conformance to Code.

(a) As used in this chapter, the term "all codes" shall include codes adopted by the Board of Trustees including but not limited to codes required by Stone County regarding structure and life safety standards set forth by fire, police, health and sanitation.

(b) All buildings or structures in any district shall strictly conform to all codes herein defined, and failing such compliance, it shall be the duty of the zoning administrator to initiate appropriate enforcement of such codes, and all of them.

Sec. 1-4. – Severability.

- (a) If any court of competent jurisdiction invalidates any provision of these regulations, then such judgment shall not affect the validity and continued enforcement of any other provision of the Zoning Code.
- (b) If any court of competent jurisdiction invalidates the application of any provision of these regulations to a particular property, structure, or situation, then such judgment shall not affect the application of that provision to any other building, structure, or situation not specifically included in that judgment.
- (c) If any court of competent jurisdiction judges invalid any condition attached to the approval of a specific application, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.
- (d) Whenever a condition or limitation is included in an administrative action authorizing regulatory activity, then it shall be conclusively presumed that the authorizing officer, commission, or board considered such condition or limitation necessary to carry out the spirit and intent of these regulations, and that the officer, commission, or board would not have granted the authorization to which the condition or limitation pertained except in belief that the condition or limitation was lawful.

Sec. 1-5. – Authority.

- (a) *Authority from state statutes.* The provisions set forth in these regulations have been prepared in accordance with the authority granted by the State including, but not limited to, Sections 89.010 to 89.500, RSMo., as the same may be amended and or supplanted from time to time.
 - (1) The village shall have all the powers conferred upon municipalities by the State of Missouri, as amended from time to time, and shall have the powers necessary to govern and manage affairs.
 - (2) The Village shall have the power to enter into contracts for any purposes not prohibited by law.
- (b) *Jurisdiction and scope.*
 - (1) The jurisdiction of these regulations shall include all land within the corporate village limits. These regulations shall also apply to any land added to the corporate limits after such land shall have been legally annexed and zoned.
 - (2) The rules and regulations governing plats of the subdivisions of land and lot splits contained herein shall be considered the minimum and shall apply within the corporate limits of the Village of Coney Island.
 - (3) The Village shall retain all rights to the maximum extent permitted by law to reject, approve or approve with conditions any and all applications brought under these regulations.

Sec. 1-6. – Accordance with the comprehensive plan

The standards herein set forth have been established in accordance with the comprehensive plan for the Village which has giving due consideration to existing conditions, community engagement, and preferred future land uses; and to guide building development to the best preferability of the entire Village.

Sec. 1-7. – Definitions.

For the purpose of these regulations, certain terms and words used herein shall be interpreted or defined as follows. Any word not defined herein or in other ordinances of the village shall have its usual meaning unless otherwise provided in this section. For general definitions and rules of construction applicable throughout this Code, see Ord. No. 3-1995.

Abutting means contiguous or sharing any point of contact, having a common border with, or being separated from such common border by a right-of-way, alley, or easement.

Accessory structure means any structure more than 100 square foot, which is not the primary structure on a premises, detached but on the same premises as the primary structure as a building which is not used for residential purposes

Accessory use means a use that:

- (1) Is clearly incidental to, and customarily found in connection with a principal use and is subordinate to the principal or secondary use; and
- (2) Is located on the same lot as the principal or primary use served; and
- (3) Is subordinate to, and serves a principal use, and is subordinate in area, extent, or purpose to the use served; and
- (4) Contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal use served.

Accommodations means any apartments, condominium or cooperative unit, cabin, lodge, hotel or motel room, or any other private or commercial structure which situated on real property and designed for occupancy by one (1) or more individuals, which is made available to the purchasers of a time-share plan.

Adaptive Reuse means the conversion of obsolescent or historic buildings from their original or most recent use to a new use. For example, the conversion of former hospital, hotel or school buildings to a residential use, or the conversion of a single-family home to office use.

Addition means any construction that increases the floor area, footprint, height or cubic volume of an existing building or structure, or an increase in that portion of a tract of land occupied by an existing use.

Agriculture is a use category comprised of uses characterized by general active and on-going agricultural uses, activities, and related uses. An agricultural use, in general, means the use of

land for the growing and production of field crops, livestock, aquatic, and animal products to produce income.

Alley means a minor right-of-way dedicated to public use which may provide a secondary means of vehicular or pedestrian access to back or side of properties otherwise abutting a street, and which may be used for public utility purposes and easements.

Amendment (See, Zoning Amendment)

Animal means every non-human species of animal, both domestic and wild.

Antenna means any structure designed for transmitting signals to a receiver or receiving station or for receiving television, radio, data communication, or other signals from other antennas, satellites, or other services.

Applicant means any person, firm, or corporation requesting approval of a change in any land use, development, or improvement application, or similar entitlement regulated by the municipal code.

Area, building means the total of area taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of unenclosed porches, terraces, and steps.

Attic means the area between roof framing and the ceiling of the rooms below that is not habitable but may be reached by ladder and used for storage or mechanical equipment.

Authorized representative means any person, firm, or corporation, or employee thereof, approved or hired by the commission to perform inspection services.

Auto repair means a facility that may provide and specialize in the repair of certain auto parts such as brakes, mufflers, collision repair or transmissions.

Bedroom means a room within a dwelling used or intended to be used by human beings for sleeping purposes.

Bed and breakfast means an owner occupied residence which serves as a transient lodging establishment, generally in a single-family dwelling or detached guesthouses, primarily engaged in providing overnight or otherwise temporary lodging for the general public and may provide meals for compensation.

Boat is a vehicle designed for operation as a watercraft propelled by oars, sails or one or more internal combustion engine(s). A boat shall not be considered as a recreational vehicle even though it may have facilities for temporary living quarters.

Board of Trustees the words "Board of Trustees" or "the Board" shall mean the Board of Trustees of the Village of Coney Island, Missouri.

Block means a parcel of land, intended to be used for urban purposes, which is surrounded, on all four sides, by public streets, highways, railroad rights-of-way, public walks, parks or common areas, rural land or drainage channels or a combination thereof.

Buffer means an area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural vegetation and/or created by the use of trees, shrubs, fences, and/or berms, with the primary purpose of providing visual, noise or odor insulation from adjacent property or roadways.

Building means any structure utilized or intend for supporting or sheltering any occupancy that is freestanding, surrounded by open space and structurally separated from other buildings.

Building coverage means the horizontal area measured within the exterior walls of the ground floor of all principal and accessory buildings on a lot divided by the gross area of the lot.

Building line means a building's limit fixed at a specific distance from the front, rear or side boundaries of a lot beyond which a structure cannot lawfully extend.

Building area and/or footprint means the portion of a lot or site, exclusive of required yard areas, setbacks, landscaping, or open space, within which a structure may be built.

Building height means the average vertical distance of all four sides from the finished grade to the highest point of the roof. For purposes of this definitions, grade shall mean the average of the finished ground level at the center of each wall of a building containing ten percent or more of the combined perimeter length of all walls of the building.

Building, temporary means any building not designed to be permanently located in the place where it is, or where it is intended to be place or affixed.

Code (See, Zoning Code)

Commercial use means a land-use classification that permits facilities for the buying and selling of commodities and services.

Commercial services, general is a use category that includes uses that provide for consumer or business services, and for the repair and maintenance of a wide variety of products. Personal services are not included in this use category.

Comprehensive plan or the Village of Coney Island Comprehensive Plan or City Plan means whether in whole or in part, as adopted by the Planning and Zoning Commission, approved by the Board of Trustees, and duly recorded in the Office of the County Recorder of Stone County. It may consist of descriptive matter including maps, data, community input and recommendations, for the physical development of the Village or any portion thereto, including any amendment, extension, additions, or updates thereof under the authority and adoption of the Planning Commission and Board of Trustees. The comprehensive plan indicates the general locations for major thoroughfares, streets, parks, public buildings sites, or other public open

spaces, routes for public utilities, zoning districts, and other elements, including special studies supplemental thereof or other similar information.

Density means the number of dwelling units per gross acre. The total number of dwelling units permitted are identified by the zoning district in which the land is situated. The total number of maximum units is calculated by dividing the total number of units by the project area or tracts of land (in acres).

Design standards mean a set of guidelines regarding the architectural appearance of a building, or improvement, that governs the alteration, construction, demolitions, or relocation of a building or improvement.

Developer means any individual, corporation, partnership, or entity who is improving a parcel of land within the village and who may or may not be the owner of the property that is subject to these standards and regulations.

Development means any human-caused change to improved or unimproved real estate that requires a permit or approval from an agency of the village, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations and the storage of materials.

District see *Zoning District*.

Driveway means a paved or unpaved access strip of land providing a vehicular connector between the public right-of-way and the parking space or garage of a private or public property.

Dwelling means any building or portion thereof, which is designed or used exclusively for residential purposes.

- (1) *Dwelling, single-family detached* means a detached building used exclusively for residential purposes having suitable accommodations for only one family.
- (2) *Dwelling, single-family attached* means a portion of a residential building having accommodations for one family, and that is located on separate lot of record apart from the remaining portions of the building. Each such dwelling may be sold independent of other portions. Typical structures include duplex and townhouse.
- (3) *Dwelling, single-family, two-unit* means a detached building used exclusively for residential purposes and designed for, or occupied by, two families living independently of each other on a single lot.
- (4) *Dwelling, multi-family* means a building, or portion of a building, having suitable accommodations for three or more families, living independently of each other, who may or may not have joint uses of utilities, halls, yards, etc. This term includes premises occupied more or less permanently for residential purposes in which rooms are occupied in apartments, suites or groups, such as apartments or dormitories. For purposes of this definition, hotels or motels shall not be considered dwellings.

(5) *Dwelling, live/work* means a use that combines a commercial activity allowed in the zone with a residential living space for the owner of the commercial business, or the owner's employee, and that person's household where: (1) the resident owner or their employee is responsible for the commercial activity performed; and (2) the commercial activity conducted takes place subject to a valid business license associated with the premises.

(6) *Dwelling, loft* means a residential dwelling that is located above the ground floor of a multistory building.

Easements means a right to use or limit the use of land in specific ways without acquiring fee simple title to land. More common types of easements are drainage, utility, conservation, slope, scenic, and sewer and water lines. Terms of easements may vary and shall be set forth by legal documents.

Easement, access means an easement created for the purpose of providing ingress/egress to a land-locked property.

Family means one or more persons related by blood, marriage, legal adoption or guardianship, or not more than four persons not so related, living together on the premises as a single residential unit, and shall not be interpreted to include the following facilities addressed in this chapter: congregate living facilities, dormitories, group homes, nursing home or workforce housing.

Fence or wall means any rigid barrier which serves to separate one portion of land from another and may serve to prevent intrusion.

Floor means the top surface of an enclosed area in a building (including basement) i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

Floor area, gross means the sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.

Floor area ratio (FAR) means the measurement of the relationship between the amount of useable floor area permitted in a building (or buildings), and the area of the lot on which the building stands. FAR is obtained by dividing the gross floor area of a building by the total area of the lot.

Frontage means the front boundary of a lot facing a street.

Garage, private means an accessory building designed or used for storage. It may be an attached part of the main building or a detached accessory structure with four (4) complete walls.

Home-based business; occupation; work means an accessory use of a residential dwelling unit and an occupation carried on in a dwelling unit by the resident thereof; provided that the use is limited in extent and clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character thereof.

Hotel means a building, or portion thereof, containing rooms occupied primarily by transients who are lodged with or without meals, and in which are provided such services as are incidental to the use thereof as a temporary residence.

Institution means an establishment that provides a public service and is operated by a federal, state, or local government, public or private utility, public or private school or college, church, public agency, or tax-exempt organization.

Landscaping means an expanse of scenery including lawns, trees, plants, and other organic or inorganic materials used to soften or mitigate the impacts of development.

License means a written license issued by the Village of Coney Island.

Living quarters is the portion of the total floor area of a residential dwelling unit which has ceilings, walls, and floors finished in a manner which is clearly intended for human occupancy.

Lot means a parcel of land occupied or to be occupied by a building or a group of buildings and their accessory uses, or for storage space, including such open spaces as are required by these regulations and such other open spaces as are arranged, designed and/or used in connection with such buildings.

- (1) *Lot area* means the total horizontal area included within the lot lines.
- (2) *Lot, corner* is a lot abutting up two (2) or more streets at their intersection, or upon one (1) street that curves around two (2) or more sides of the lot.
- (3) *Lot, coverage* is the area of a zoning lot occupied by the principal building and accessory buildings.
- (4) *Lot depth* means the distance from the street line of the lot to its rear line measured in the average direction of the side lines of the lot.
- (5) *Lot, interior* means a lot having no street frontage other than that of the driveway or easement used to access the land.
- (6) *Lot line* is the dividing line between the street and lot.

Lot of Record means a lot which is part of a subdivision, the map of which has been recorded in the office of the Recorder of Deeds of Stone County, or a parcel of land, the deed of which was recorded in the office of the County Recorder of Deeds. The terms "lot," "parcel," "plot," or "tract" shall be considered synonymous for the purpose of this Code.

Manufactured home (formerly known as a mobile home) means a transportable structure in one or more sections that, in mode, is 8 body feet or more in width or 40 body feet or more in length or, where erected on site, is 320 or more square feet, and is built on a permanent chassis

and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include any structure that meets all of the requirements of this paragraph, except the size requirements and with the respect to which the manufacturer voluntarily files a certification required by the Secretary of the US Department of Housing and Urban Development (HUD) and complies with the standards established under this title; and displays a certification label on the exterior of each transportable section.

Modular home means a dwelling unit which is constructed as being subject to the same state, local or regional building codes as site-built homes.

- (1) A unit that is fabricated at an off-site location in a controlled environment; and
- (2) A unit which can be installed or assembled onto a permanent perimeter foundation at the building site on a recorded village platted lot; and
- (3) A unit that is certified and in compliance with the Federal Manufactured Housing Construction and Safety Standards.

Motor vehicle is any vehicle self-propelled by a battery-powered, electric, or internal combustion engine, which are permitted and requires a valid registration legally issued by a governmental authority in order to be operated on a public way. A motor vehicle shall include but not be limited to automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors.

Nightly rental means a dwelling or portion thereof, in which guestrooms are available to transient guests.

Nonconforming structure means a lawfully existing building or portion thereof that does not conform to the provisions of this Code in the zoning district in which it is situated as established in this chapter, or in previously applicable zoning regulations.

Nonconforming use means a structure or premises legally existing or occupied, at the time of the adoption of these regulations, by a use that does not conform to the provisions of the present Code in the zoning district in which it is situated as established in this regulation, or in previously applicable zoning regulations. The nonconforming use or structure may legally continue; however, a new nonconforming use or alternation, extension, or enlargement is not permissible.

Office is a use category for a facility that provides executive, management, administrative, or professional services not specifically listed elsewhere in this chapter, but not involving the sale of merchandise except as incidental to a permitted use.

Official map is the map showing streets, highways and parks and drainage, both existing and proposed.

Open space, public means the land which may be dedicated or reserved for acquisition for general use by the public, including parks, recreation areas, school sites, community or public building sites, and other lands.

Parking space means a suitably surfaced area, either within or outside of a building, which is sufficient in size to store one standard automobile.

Permit means a written permit issued by the Village of Coney Island or authorized individual permitting the construction, alteration, extension, addition of accessory buildings, or permissible temporary uses.

Permitted use means any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Person means any individual, firm, partnership, association, syndicate, company, trust, corporation, limited liability company, municipality, agency, political or administrative subdivision of the state, or other legal entity of any kind.

Personal services means persons or entities primarily engaged in providing services involving the care of a person or personal goods or apparel.

Place means an open unoccupied space or a public or private thoroughfare other than a street or alley permanently reserved as the principal means of access to abutting property.

Plat, final means a complete and exact subdivision plat, prepared for official recording as required by statute, to define property boundaries, proposed streets, and other improvements.

Plat, preliminary means a formal plan, drawn to scale, indicating prominent existing features of a tract and its surroundings, the general layout of the proposed subdivision, and its relationship to the surrounding area.

Planning and Zoning Commission (P&Z) means the Planning and Zoning Commission of the Village of Coney Island, Missouri.

Porch, open means a porch open on three (3) sides except for wire screening. A porch shall not be considered open if enclosed by either permanent or detachable glass sash.

Principal use means a primary, principal, or dominant use established or proposed to be established on a parcel. In a mixed-use building there may be more than one principal use.

Public utility means electric, electric distribution, gas, telephone, telegraph, pipeline, sewage, water and community antenna television companies. Any person, firm, corporation, municipal department, or board, duly authorized to furnish and furnishing under state or municipal regulations to the public, electricity, gas, steam, communications, telegraph, transportation, or water.

Recreational vehicle means any motor vehicle or trailer designed or intended for dwelling purposes; travel trailer; camper; motor home; tent trailer; boat; boat trailer; vacation trailer or camping trailer.

Recreational vehicle park (otherwise known as RV park or campgrounds) means any property where one or more lots are rented to users of recreational vehicles, and which are occupied for temporary purposes.

Redevelopment means development activity characterized by the removal of an existing building and/or structure to be replaced with new construction.

Rent means a stated return or payment for the temporary possession or use of a house, land, apartment, or condo, made usually at fixed intervals, by the tenant or user to the owner for not less than thirty (30) days.

Residence means one (1) or more dwelling units for permanent occupancy located in a permanent structure or building.

Right-of-Way means any strip of land acquired by reservation, dedication, prescription, or condemnation and used or intended to be used by specific persons or the public for a specific purpose or purposes. "Right-of-way" includes any public ways.

Roof means the external upper covering of a building.

Sediment & erosion control plan means a scheme that minimizes soil erosion and sedimentation resulting from development and includes, but is not limited to, a map and narrative.

Setback line means the line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be placed.

- (1) *Front setback* means the minimum distance required, or maximum distance allowed between a building, structure, or improvement and the front lot line.
- (2) *Interior side setback* means the minimum distance required between a building, structure, or improvement and a lot line that is shared with another lot.
- (3) *Side setback* means the minimum distance required between a building, structure, or improvement and a street on either side of a lot.
- (4) *Rear setback* means the minimum distance required between a building, structure, or improvement and the rear lot line.

Shoreline means the point at which land and water meet as determined by the mean high-water mark of a body of water and under the authority of the USACE.

Sidewalk means an improved pedestrian surface that is typically located adjacent to a roadway or street.

Sign means a device, a structure or part of a structure, including structural trim or monument used to display or communicate information of any kind.

Site means parcel of land consisting of the project area, one or more lots, or portions thereon, which is described by reference to a recorded plat or by metes and bounds.

Site plan means maps, charts, drawings, architectural renderings, engineer plans, photographs, and other visual media showing the proposed development of physical facilities to be constructed in the project area.

Special permit means a use which is subject to special regulations, which regulations may be more restrictive than those in effect for any particular District.

Stormwater management plan means a description of any stormwater management technique, apparatus, or facility that controls or manages the path, storage, or rate of release of stormwater runoff. Such facilities may include storm sewers, retention or detention basins, drainage channels, drainage swales, inlet or outlet structures, or other similar facilities.

Story means part of the building between the upper surface of the floor and the floor next above which is not an attic, cellar, crawl space, cellar or half story. These are counted in height measurements under the general regulations.

Street means a road, highway, lane, avenue, boulevard, or any other public way, which provides a principal means of access to a lot. "Street" shall be deemed to include the entire width of the right-of-way but shall not include private driveways and private rights-of-way.

Street line means a common line between a street right-of-way and a lot.

Street right-of-way means the area of a street between the parallel boundary lines of that street which allows for public use and access.

Street, public means any town road or state or federal highway.

Use means the specific purpose or activity for which a building, structure or lot is intended and as identify by these regulations.

- (1) *Use, accessory* means a use subordinate and customarily incidental to the principal use, structure or land and located on the same lot.
- (2) *Use, principal* means the primary or predominant use of a lot, structure or building.
- (3) *Use, similar* means a use which is similar to the permitted used as to the type of operation, employment, traffic generated the effects of the use upon the district and the appropriateness of the use is accomplishing the stated objectives of the district in which it is to be located.
- (4) *Use, temporary* means a use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

Utility, facility means a building or structure used or intended to be used by any utility, including but not limited to any gas treatment plant reservoir, tank, or other storage facility, water treatment plant, well, reservoir, tank, or other storage facility; electric generating plant, distribution, or transmission substation; telephone switching or other communication plant, earth station, or other receiving or transmission facility; any storage yard for utility equipment or vehicles; and any parking lot for parking vehicles or automobiles to serve a utility.

Variance means permission to depart from this development code when, because of special circumstances applicable to the property, strict application of the provisions of these regulations deprives such property of privileges enjoyed by other property in the vicinity that is under identical zoning.

Village means the words “the Village”, this Village, municipality, or districts shall mean the Village of Coney Island, Missouri.

Violation means a violation of the regulation occurs when there is:

- (1) any work on property which requires approval of the Village, and which has not been approved, or exceeds the scope of, or is not in compliance with, any permit issued or exceeds the scope of, or is not in compliance with, any order or action of the Village, or is otherwise not in compliance with these regulations, or any use of property which is not in compliance with the regulations; and
- (2) The owner, tenant, or occupant of a property shall not cause or allow a violation of the regulations and shall be jointly and severally liable for any such violation.

Yard means an open space between the facing wall of a structure and the nearest lot line and which is unoccupied except as may be specifically authorized by these regulations. Any measurement shall be taken perpendicular from the nearest lot line to the nearest point of the structure, not including steps, terraces, unenclosed balconies and unenclosed or screened porches.

1. *Yard, front*, means that portion of the yard extending across the front of a parcel between the street line and the front building line.
2. *Yard, rear*, means that portion of the yard, on the same parcel with a building, between the rear building line and the rear parcel line, for the full width of the parcel (in those locations where an alley is platted in the rear of the parcels, half the width of the platted alley may be included in the rear yard).
3. *Yard, side*, means that portion of the yard along each side of a building between the building line and the sideline of the parcel extending from the front yard to the rear yard.

Zoning amendment means a change in the wording, context, or substance of this title or change in the zoning or district boundaries of the official zoning map, to be made a part of this title.

Zoning Administrator is an agent designated by the Board of Trustees, responsible for granting zoning permits and, following a determination by the Board of Trustees, for special permits and variances and the enforcement of the regulations contained herein. Decisions of the Zoning Administrator are appealable in accordance with the provisions of these regulations.

Zoning district means any district delineated on the official zoning district map under the terms and provisions of this code or which may hereinafter be created subsequent to the enactment of this code for which regulations governing the area, height, use of buildings, or use of land, and other regulations relating to development or maintenance of existing uses or structures, are uniform.

Zoning map means the zoning map or maps of the Village, together with all amendments subsequently adopted and incorporated into this code as a part hereof, designating zoning districts, prepared in accordance with applicable law.

ARTICLE II. – RULES AND REGULATIONS

Sec. 1-8. –Procedures.

(a) *Pre-application.*

- (1) Any potential applicant may request a meeting with the zoning administrator to review the detail conceptual plans and descriptions of the project for informal recommendations from the village regarding the proposed project.
- (2) The informal evaluation and recommendations provided by the village, zoning administrator, or authorized representative are not binding upon the applicant or the village, nor should they be construed as requiring the village to grant any approval to any applicant.

(b) *Application requirements.* Applications shall be submitted to the zoning administrator. Application submittal requirements for every application type shall be established by the village on forms made available by request from the village.

(c) *Reports and studies.*

- (1) Reports or studies may be necessary to adequately evaluate the consequences of a proposed development and may be required as part of a specific application. These may include, but are not limited to, studies of soils, geological hazards, fiscal impacts, market analysis, traffic impacts, and environmental impacts.
- (2) The applicant shall furnish the reports or studies needed at the applicant's cost, or at the village's discretion, pay appropriate cost of the study to the village so that the village may retain a consultant to prepare the required study.

- (3) All required reports or studies shall be executed by professionals or other persons qualified to provide the requested reports. Failure of the applicant to select a village-approved professional or consulting firm may result in the village's refusal to consider the report or study, or denial of the application.

Sec. 1-9. – Changes in zoning districts.

(a) General procedures.

- (1) Changes in the zoning district of a tract or parcel of land located in the village, if approved, shall be made by ordinance by the Board of Trustees upon recommendation by the Planning and Zoning Commission after notice and hearing as provided by law. Every such ordinance shall legally describe the particular tract or parcel of land, and the change being made in its zoning district. Each ordinance may contain more than one change of zoning.
- (2) Upon the adoption by the Board of Trustees of an ordinance re-zoning any tract or parcel of land, the Village shall cause the change to be made on the official zoning map so that the map shall at all times reflect current zoning district of any tract or parcel of land in the village.

(b) Changes by the Board of Trustees. The Board of Trustees on its own application may from time to time amend the district boundaries or regulations contained in these regulations; provided such proposed change is first submitted to the Planning and Zoning Commission for recommendation and its report; and provided that no less than 15 days' notice of such proposed change shall first be published in the newspaper in the village, and a hearing is granted to any person interested at a time and place specified by such notice. If a protest against such amendment is presented, duly signed and acknowledged by the owners of 30 percent or more, either of the areas of the land (exclusive of streets and alleys) included in such proposed change or within an area determined by lines drawn parallel to and 185 feet distant from the boundaries of the district proposed to be changed, such amendment shall not be passed, except by at least two-thirds vote of the Board of Trustees.

(c) Changes by other individuals or groups.

- (1) Application for any change in district boundaries of any tract or parcel of land, or the regulations affecting any district, shall be filed with the zoning administrator and shall be accompanied by such data and information as may be prescribed by the Planning and Zoning Commission so as to ensure the fullest practicable presentation of facts for the permanent record.
- (2) The application shall only be filed by the owner of the property, or a person having legal authority to act on their behalf, seeking a change of district, or by a person having a contract to buy such a property, or a person having legal

authority to act on their behalf. In the event of a denial of such application, no substantially similar reapplication by the same applicant, or on their behalf, may be filed for 60 days following such denial.

- (3) To defray costs of proceedings prescribed herein, filing and publication fees shall be paid by the applicant upon the filing of each application for a change of districts.

Sec. 1-10. – Site plan review.

(a) *Purpose.* The purpose of the site plan review process is to ensure compliance with the development and design standards and provisions of these regulations. It is designed to encourage quality development reflective of the goals, objectives, strategies, and preferred future land uses of the Village's Comprehensive plan.

(b) *Process.* The review process is carried out under the authority of the Board of Trustees to the Planning and Zoning Commission, zoning administrator or authorized representative to review the plan, application, or other studies in determining the manner in which the applicant intends to make use of their property with the required documentation.

(c) *Applicability.*

(1) *Action by zoning administrator.* The zoning administrator shall review each site plan application and, as necessary, refer to other professionals. Taking into account the results of those reviews, the zoning administrator shall take final action on the application and approve, approve with conditions, deny, or defer decision on the application based on the applicable approval criteria below.

(2) *Approval criteria.* The Planning and Zoning Commission may approve a site plan upon a finding that the application meets all of the following criteria, as applicable:

- i. The site plan is consistent with the village comprehensive plan;
- ii. The site plan is consistent with any previously approved subdivision plat or any other precedent plan or land use approval as applicable;
- iii. The site plan complies with all applicable development and provisions set forth in this code;
- iv. Any significant adverse impacts reasonably anticipated to result from the use will be mitigated or offset to the maximum extent practicable;
- v. The development proposed in the plan and its general location is, or will be, compatible with the character of surrounding land uses and structures; and

vi. The development can be adequately served by village services including, but not limited to, roads, water and wastewater.

(3) Subsection (d) below, identifies the types of development and design activities that require site plan approval. When site plan review is required, structures, and uses may be established, and building permits may be issued only after a site plan showing the proposed development has been approved in accordance with the procedures and requirements of this section.

(d) *Site plan review required.* The following applications and projects are subject to site plan approval:

- (1) All requests for temporary uses and structures; more than 100 square foot;
- (2) Relocation of development pads, buildings, or dwelling units for some practical reasons such as topography, road alignment or easements provided that the modification does not significantly alter the site design in terms of parking layouts, vehicular circulation, landscape design, and other similar components of the development plans;
- (3) An increase or decrease in a proposed setback, provided Code requirements are still met;
- (4) A modification to a recreation area or open space design, but not elimination or a significant reduction;
- (5) A change in the parking lot layout or vehicular circulation;
- (6) Any change that may affect an adjoining residential neighborhood;
- (7) Any request that would significantly alter the design of the site or building(s); or
- (8) A request to change or delete a condition of approval established by the Planning and Zoning Commission or the Board of Trustees.

(e) *Site plan elements.* A required submission that is a detailed drawing, map, or when required engineered drawings, that conceptually illustrates the structure(s) proposed for the subject parcel of land, including but not limited to lot lines, dimensions, building footprints, square footage, proposed uses, landscape areas and buffers, accessory structures, driveways, pedestrian and vehicular circulation, parking and site access. The application shall include, but not limited to, the aforementioned and following requirements for review before approval of the application.

- (1) *Conceptual site plan.* The site plan drawing shall include a form of scale, uses, and proposed structure dimensions for the accuracy of review. The village may impose more strict regulations or additional information after submission.

- (2) *Use*. The proposed use shall be clearly stated to be reviewed under the table of permitted uses. If the proposed use is not identified, it is up to the interpretation of the zoning administrator or otherwise specified in these regulations.
- (3) *Parcel*. The parcel(s) or project area for development will be clearly identified by referencing one of the following: recorded lot number, parcel tax ID number, address to include the project area's dimensions in feet.
- (4) *Density*. Divide the total number of units by the project area or tracts of land in acres.
- (5) *Setback*. The setbacks as defined in this code, shall be clearly indicated to the shortest points that are parallel to all four sides (front, sides, rear) of the proposed structure.
- (6) *Building height*. Shall be graphically represented as the vertical distance from the average of the finished grade or ground level to the highest point of the roof from the center or the perimeter walls which contain ten percent of the perimeter measured either ten feet away from the building, or at the property line if the building is less than ten feet the property line.
- (7) *Development coverage*. The horizontal area measured within the exterior walls of the ground floor of all principal and accessory buildings on a lot divided by the gross area of the lot.
- (8) *Existing development*. Existing developments that are being altered, demolished, or reconstructed will be stated, demonstrated, displayed or clearly described in the plan.
- (9) *Land disturbance*. Land disturbance activities shall comply with the state requirements and any state issued permits shall be provide with the village application.
 - i. Sediment & erosion control plan may be provided in the application to minimize the impacts from development but are not required, if no state issued permits are required.
- (10) *Tree Preservation*.
 - i. *Unauthorized removal of trees*. No tree shall be removed, pruned, trimmed, graded or heavy equipment operated under the tree canopy for any tree situated within the right-of-way; and with the trunk as the starting position to include the furthest extent of the drip line, otherwise known as the canopy without written consent of the village.
 - ii. *Tree protection*. – requires tree protection during construction.

(f) *Preliminary site plan approval.* The completed review of the conceptual site plan and application are submitted to the authorized representative for review and comment prior to the formal submittal to the planning commission or council.

(1) The day of acceptance of the preliminary review begins the time period for an official review by the authorized representative.

(g) *Post-approval.*

(1) *Site-specific and binding.* Approved site plan documents shall be binding upon the applicants and their successors and assigns. No permit shall be issued for any building, structure or use that is not in accord with the approved documents, or any approved modifications thereto. The construction, location, use or operation of all land and structures within the site shall conform to all conditions and limitations set forth in the documents. No structure, use, or other element of approved design review documents shall be eliminated, altered or provided in another manner unless an amended site plan is approved.

(2) *Expiration.* Approved site plan documents shall expire one year after approval if a building permit has not been issued, or the approved use established. In the event that the documents expire due to the passage of this time period, new site plan review documents must be submitted for approval in the same manner as an original application for development review. An extension not to exceed one year may be granted by the zoning administrator. Any further extensions must be issued by the Board of Trustees.

(3) *Modifications to site plans.* The holder of an approved site plan may request a modification to the document, or the conditions of approval, by submitting amended documents to the zoning administrator. The amended documents shall be filed and processed in accordance with the procedures for an initial site plan submittal.

Sec. 1-11. – Conformance to vicinity; depreciation.

(a) All structures in the Residential, Commercial and Downtown Districts shall, for the purposes of design, character of the Village, conform to the area and immediate vicinity.

(b) When a new structure or development is proposed in the commercial zoning district that directly abuts the low density residential district (LDR) the zoning administrator shall provide a recommendation to the Planning and Zoning commission, which in turn will make a recommendation to the Board of Trustees. In rendering a decision, the Board of Trustees shall give careful consideration to the need for undisturbed natural vegetation buffering to protect the integrity of the neighboring residential zoning district.

- (c) In all cases under this Section, the Board of Trustees, and any sub-bodies or agents of the Village (as applicable) shall have full authority to approve, deny, approve with conditions, or require any documentation deemed necessary and appropriate to provide an accurate representation of the effects the proposed structure or development may have on the neighboring properties. Prior to rendering a final decision, citizen input shall be considered through the public hearing process with legal notification to all property owners within 185 feet of the subject property.

Sec. 1-12. – Signage

- (a) *Regulation and authority.* Except as erected or placed by the Village, no signs may be erected or placed on the Village of Coney Island, Missouri property without the express written consent of the Village of Board of Trustees or their designated designee. The Village is authorized to charge a fee for consent to erect or place such sign and to limit the size and placement of any such signage.

(b) Application. An application can be requested from and submitted to the Village Clerk.

Sec. 1-13. – Authorization by Board of Trustees required.

The Board of Trustees shall approve by resolution the following, not to be deemed exhaustive:

- (a) *Public building.* The authorization of the location of any public building (whether used by the village, county, state or federal government, or any officially licensed utility) in any district within the village.

ARTICLE III. – ZONING DISTRICTS

Sec. 1-14. – Applicability.

- (a) This code shall not apply to the existing use of any building which shall have complied with all the laws and ordinances in effect prior to the effective date of the ordinance from which this code is derived, otherwise be known as pre-existing nonconforming uses and referenced in ARTICLE V. – Development standards.
- (b) All zoning district regulations shall apply to any establishment of a new use or alteration of a building which is intended to change its use, and to any enlarging of a building which has a nonconforming use.

Sec. 1-15. - Zoning districts established.

- (a) For the purposes of these regulations within the corporate limits of the Village of Coney Island, Missouri, are to regulate and administer the use and improvement of land, and the location, type, construction, and use of building improvements; to preserve personal and property rights; promote the general welfare, public safety, and health; all parcels

and tracts of land within the village including any and all building improvements thereon, shall be zoned into the following districts:

(1) *“LDR” Low Density Residential.* A single-family residential district where traditional single family residential living occurs and is intended to:

- i. Provide areas for residential development or redevelopment which are consistent with the Village of Coney Island Comprehensive Plan 2022;
- ii. Ensure adequate light, air, and privacy for all dwelling units;
- iii. Protect natural environmental features, scenic views, and access to public areas;
- iv. Protect the community’s character and established residential areas; and
- v. Discourage the use of commercial activities which may reduce the quality of life or negatively impact market values and personal property.

(2) *“MU” Mixed Use District.* The mixed use district is intended to provide flexibility for commercial development which may not be suited for residential areas but does not exclude residential opportunities.

- i. Provide areas for residential and commercial development and adaptive reuse which are consistent with the Village of Coney Island Comprehensive Plan 2022;
- ii. Promote higher density residential development allowing multi-family dwelling units; including nightly rentals.
- iii. Promote limited commercial opportunities which are complimentary with the area;
- iv. Promote diverse housing options; and
- v. Discourage high intensity commercial activities within existing neighborhoods which may generate unwanted traffic congestion, noise levels, visually displeasing or other nuisances caused unto adjacent residential areas.

(3) *“CC” Community Commercial District.* The commercial district is intended to generally guide commercial development and provide opportunities for retail, office space, produce, and lodging in a localized area.

- i. Implement the Village of Coney Island Comprehensive Plan 2022 future land use and commercial opportunities for residents and transient guests;

- ii. Protect natural environmental features, scenic views, and access to public areas;
- iii. Preserve and protect Coney Island's community image for retirees and seasonal getaway for its residents and secondary property owners; and
- iv. To minimize negative nuisance and environmental impacts on residential areas.

Sec. 1-16. - Zoning map.

(b) *Official Title.* The zoning map shall be known as "The Village of Coney Island Zoning Map" and may be referred to as the "Zoning Map." The zoning map defines the location and boundaries of said zoning districts shown on a map, prepared for the purpose of representing each district as prepared by the village authority.

(c) *Preparation and maintenance.* The Planning and Zoning Commission shall be responsible for the preparation and maintenance of the zoning map. The Planning and Zoning Commission may assign portions of said duties to the Village Clerk, staff, or partner agencies which are not legally bound to the duties of the Planning and Zoning Commission.

(1) The zoning map shall be updated in a reasonable fashion as zoning changes occur though the recommendations by the Planning and Zoning Commission and approval of the Board of Trustees.

(2) The zoning map shall be kept by the Village Clerk and shall be available by digital file and at the water tower for the inspection and examination by members of the public at all reasonable times.

(d) *Interpretation.* The district boundaries shown on the zoning map are generally separated by boundaries recorded and maintained by the county recorder of deeds. Typically represented as property lines or extensions thereof, public right-of-way including streets, alleys, the Corp of Engineers jurisdiction, or the lake. The following rules shall apply when determining the exact location of boundaries:

(1) *Approximate lines.* Boundaries indicated as approximately following right-of-way lines, property lines, platted lot lines, or where the boundary follows along a lake it shall be the limit of the jurisdiction of the Village of Coney Island, unless otherwise indicated, or jurisdiction of the Corp of Engineers or Stone County and interpreted as such, unless otherwise noted.

(2) *Boundary interpretation.* When uncertainty exists with respect to the boundaries of the districts or property separations as shown on the zoning map, the following shall apply:

(3) *District boundaries.* The boundaries are either streets, alleys, or lake management areas unless otherwise shown.

- i. Where the boundaries are not otherwise indicated, and where the property has been or may hereafter be divided into blocks and parcels, the district boundaries shall be construed to be parcel lines.
- ii. It shall be the responsibility of the applicant to provide adequate documentation of recorded parcel lines, property identifies, and survey markers.

(e) *Scaled distance.* Distances not specifically indicated shall be determined by using the scale of the map and georeferenced.

(f) *Divided lots.* Where a district boundary divides a platted lot or a tract which has one owner, the entire lot shall be construed to be within the least restrictive district.

(g) *Vacation.*

(1) Any member of the public, citizen, and municipality may request the village to vacate any portion or entirety of any street, alley or public way through an official action.

(2) Whenever any street, alley or public way is vacated by official action of the Board of Trustees, the zoning districts adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all areas included in this vacation shall then be subject to all regulations of the extended district.

Sec. 1-17. – Annexation.

Any territory hereafter annexed to the village shall be zoned LDR until changed as provided in this code, unless otherwise indicated in the annexation plan of intent.

Sec. 1-18. – Building types.

(a) *Building type descriptions.*

(1) *Detached single-family dwelling.* A building, other than a manufactured home or mobile home, designed for residential purposes having suitable accommodations for only one family.

(2) *Manufactured or mobile dwelling.* A home, building or structure which meets the definition of this code, the International building code (IBC) and International Residential Code (IRC) which is designed, constructed off site and able to be transported.

- (3) *Two-unit single-family dwelling.* A building that contains two primary dwelling units with separate external entrances.
- (4) *Attached single-family dwelling or townhouse.* A building that contains a dwelling unit located on its own lot that shares a wall on one or both sides with a neighboring dwelling.
- (5) *Multi-family dwelling.* A building that contains three or more dwelling units that share common walls or floor/ceilings with one or more units, and where the lot is held in a single ownership.
- (6) *Civic.* A building designed to house public, civic or institutional uses.
- (7) *Commercial.* A building designed for a single tenant with a commercial use. A commercial building can scale in structure size and square feet. This structure serves the public as a general store, resort, hotel, retail, or any service in relation to the sale or transfer of goods and services.

Sec. 1-19. - Low Density Residential (LDR).

- (a) *Purpose.* The Low Density Residential District is intended for the residential community in the village consisting primarily of traditional single-family housing on individual building lots. The Low Density Residential District is the least intense of the three zoning districts with restrictions on the density and intensity of use to preserve, protect, and enhance the character of the residential community. The average density in this district should not exceed six dwelling units per acre.
- (b) Development in the Low Density Residential District should balance development needs with preservation of sensitive environmental features, preserve open space, preserve lake views, preserve the established community character, provide access to natural amenities, and minimize infrastructure costs. Development should minimize impacts to steep slopes, drainage areas, woodlands, and other valued natural features.
- (c) While intended to focus on infill development and preserving detached single-family homes, the Low Density Residential District can accommodate complementary uses, a variety of housing types, styles, and sizes to provide a diverse housing stock in order to accommodate a range of age groups, lifestyles, and economic levels within the community. The Low Density Residential District also accommodates for civic, open space, micro gardens and other limited nonresidential uses which are designed to be integrated as part of a complete neighborhood.
- (d) *Uses.* All uses in the LDR District shall conform to Table Sec. 1-22.1, Permitted Uses.
- (e) *Dimensions.* Development in the LDR District shall conform to the following dimensional standards:

Table 1-19.1 LDR Dimensional Standards

Building Types	Lot		Setbacks (min. ft.)				Density	Max Height (ft.)
	Lot Area (min. sq. ft.)	Min. Lot Width (ft.)	Front	Side		Rear	(min/max) (du/ac)	
				Interior	Abutting Streets			
Detached single-family dwelling	5,000[2]	50	15	5[3]	15	10[3]	0.2-6	35
Two-Unit single-family dwelling	5,000[2]	50	15	5[3]	15	10[3]	0.2-6	35
Attached single-family dwelling	2,500	25	15	5[3]	15	10[3]	0.2-6	35
Manufactured/mobile home [4]	10,000	-	15	5[3]	15	10	-	35
Civic	5,000	50	15	5	15	10[3]	-	35
Accessory structure	-	-	Not permitted	5[1]	15[1]	5[1]	-	15

Notes:	<p>[1] 10 feet is required between primary and accessory structures.</p> <p>[2] Exception to min. sq. ft. lot may be reduced by the Board of Trustees, upon recommendation of the Planning and Zoning Commission, but shall not be less than 2000 sq. ft., when at least two abutting parcels are less than 50% of the minimum lot area to ensure consistent community character.</p> <p>[3] 0 ft setback may be permitted along the lot line directly abutting USACE jurisdiction boundaries.</p> <p>[4] Manufactured homes, mobile homes shall be no smaller than 28' wide by 48' long and must be on a lot with a minimum size of 100x100 feet. (Ord. No. 7-1999.)</p> <p>[5] See Article V. Development Standards pertaining to existing foundations.</p>
---------------	---

Sec. 1-20. - Mixed Use District (MU).

- (a) *Purpose.* Mixed-Use Districts are intended as dense, diverse, walkable areas that facilitate residential, commercial, employment and recreation uses in a single location. Mixed-Use Districts should incorporate a variety of complementary uses that are mutually supportive and integrated into the community. The density and precise mix of uses in the Mixed-Use District may vary, but these districts should always be located in, or adjacent to key centers of activity.
- (b) Successful Mixed-Use Districts require an active and inviting public realm, and safe and inviting pedestrian amenities. Design of public and private components is critical in Mixed-Use Districts to ensure that the concentrated mix of uses, and activities functions efficiently and creates an active, inviting environment. Common mixed-use development configurations include active uses such as retail, restaurants, and services at the street level, with residential or office space above.
- (c) *Uses.* All uses in the MU District shall conform to Table Sec. 1-22.1, Permitted Uses.
 - (1) In the Mixed-Use District, a mix of uses—either within a single building or on a development site—shall be provided unless it can be demonstrated that adjacent properties provide or will provide a complementary diversity of uses. The uses of adjacent properties can be established through one of the following: (1) existing uses; (2) approved site plan for development; or (3) approved area or neighborhood plan.
- (d) *Dimensions.* Development in the MU District shall conform to the following dimensional standards:

Table 1-20.1 MU Dimensional Standards

Building Types	Lot		Setbacks (min. ft.)				Density	Max Height (ft.)
	Lot Area (min. sq. ft.)	Min. Lot Width (ft.)	Front	Side		Rear	(min/max) (du/ac)	
				Interior	Abutting Streets			
Detached single-family dwelling	5,000[2]	50	15	5[3]	15	10[3]	0.2-6	35
Two-Unit single-family dwelling	5,000[2]	50	15	5[3]	15	10[3]	0.2-6	35
Attached single-family dwelling	2,500	25	15	5[3]	15	10[3]	0.2-6	35
Multi-family dwelling	4,000[2]	50	15	5[3]	15	10[3]	0.2/6	35
Manufactured/mobile home [4]	10,000	-	15	5[3]	15	10	-	35
Civic	5,000	50	15	5	15	10[3]	-	35
Mixed Use	5,000	50	15	5	15	10[3]	-	35

Accessory structure	-	-	Not permitted	5[1]	15[1]	10[1]	-	15
Notes:	<p>[1] 10 feet is required between primary and accessory structures.</p> <p>[2] Exception to min. sq. ft. lot may be reduced by the Board of Trustees, upon recommendation of the Planning and Zoning Commission, but shall not be less than 2000 sq. ft., when at least two abutting parcels are less than 50% of the minimum lot area to ensure consistent community character.</p> <p>[3] 0 ft setback may be permitted along the lot line directly abutting USACE jurisdiction boundaries.</p> <p>[4] Manufactured homes, mobile homes shall be no smaller than 28' wide by 48' long and must be on a lot with a minimum size of 100x100 feet. (Ord. No. 7-1999.)</p> <p>[5] See Article V. Development Standards pertaining to existing foundations.</p>							

Sec. 1-21. - Community Commercial District (CC).

(a) *Purpose.*

- (1) Community Commercial Districts provide a diversity of retail, service, office, finance and related business uses to serve the needs of community residents and the larger region. In the Community Commercial District, the size of buildings is larger, and the intensity and density of uses are greater than in Neighborhood Commercial Districts. Community Commercial Districts should be concentrated at major activity centers, along high traffic transportation corridors and are ideally served by transit.
- (2) Because Community Commercial Districts support multiple neighborhoods, they may include larger-scale tenants, including hardware stores, apparel, sporting goods, and other larger-format retailers. Community Commercial Districts also accommodate a wide range of commercial uses, including auto-oriented uses. However, the Community Commercial District enables commercial activity centers and corridors to transform over time into more dense, diverse, and walkable places that incorporate other types of uses.
- (3) Community Commercial Districts should be supported and surrounded by adjacent multi-family and mixed-use development that capitalize on the proximity to services and provide a transition to Lower Density Residential neighborhoods.

(b) *Uses.* All uses in the CC District shall conform to Table Sec. 1-22.1, Permitted Uses.

(c) *Dimensions.* Development in the CC District shall conform to the following dimensional standards:

Table 1-21.1 CC Dimensional Standards

Building Types	Lot		Setbacks (min. ft.)				Density	Max Height (ft.)
	Lot Area (min. sq. ft.)	Min. Lot Width (ft.)	Front	Side		Rear	(min/max) (du/ac)	
				Interior	Abutting Streets			
Multi-family dwelling	4,000	40	15	5	15	10[2]	12/24	35
Civic	5,000	40	15	5	15	10	-	35
Mixed Use	5,000	50	15	5	15	10[3]	-	35
Commercial	4,000	40	15	5	15	10	-	35
Accessory structure	-	-	Not permitted	5[1]	15[1]	5[1]	-	15
Notes:	[1] 10 feet is required between primary and accessory structures. [2] 0 ft setback may be permitted along the lot line directly abutting USACE jurisdiction boundaries. [3] See Article V. Development Standards pertaining to existing foundations.							

ARTICLE IV. - USES

Sec. 1-22. - Table of permitted uses.

(a) *Use table intent.* Table 1-22.1 Permitted Uses, lists the permissibility of uses within all zoning districts. All uses categories are listed as well as additional reference to use and structure standards which may apply. Specific use types are further defined in in Sec. 1-7. – Definitions. Development or use of a property for any other use not specifically allowed as a permitted or as a special use in Table 1-22.1 is prohibited.

(b) *Table explained.*

(1) *Permitted by-right uses.* /P/ in a cell indicates that the use is permitted by right in the zone district. Permitted uses are subject to all other applicable regulations of this code, including the use-specific standards.

(2) *Prohibited uses.* A blank cell indicates that the use is prohibited in the zone district.

Table Sec. 1-22.1 Permitted Uses

USE CATEGORY	ZONE DISTRICTS			<i>Supplemental u</i>
<i>Specific Use Type</i>	Low Density Residential (LDR)	Mixed Use (MU)	Community Commercial (CC)	Note: This is to reference code section for use-specific requirements
Residential				
Detached single-family	P	P		

Two-Unit single-family	P	P		
Attached single-family	P	P		
Multi-family		P	P	
Manufactured/Mobile home	P	P		1-24.(b)(1)
Modular Housing	P	P		1-24.(b)(2)
Live/Work			P	1-24.(b)(3)
Loft		P	P	
Home occupation	P	P		1-24.(b)(4)
Civic				
Religious & cultural institutions	P	P	P	
Government Offices and Facilities		P	P	
Public Service Facilities and utility Facilities	P	P	P	
Parks, Open space, shoreline access	P	P	P	
Community Garden	P	P	P	
Commercial				
Retail		P	P	
Marina		P	P	
Dock Access	P	P	P	
Office		P	P	
Restaurant			P	
Automotive services			P	

Resort			P	
Bed and Breakfast			P	
Recreational vehicle park		P	P	
Hotel/Motel			P	
Nightly Rental		P	P	

Sec. 1-23. - Use and structure standards.

(a) *Generally applicable standards.* The following standards are applicable to all uses and structures:

- (1) No structure shall be erected or structurally altered for use, nor shall any structure or land be used, or changed in use, which does not comply with all of the district regulations established by the title for the district in which the structure or land is located.
- (2) No building, or any addition thereto, shall be erected over or under any public sewer or public utility lines, nor upon any platted or recorded easement, unless permission is granted, in writing, by the village or the public utility whose lines and/or easements are involved.
- (3) Unless otherwise approved as a special event or a temporary use pursuant to this code, no temporary structures more than 100sf or fabrications shall be erected in any district without approval from the village.

Sec. 1-24. – Supplemental use standards.

(b) *Residential uses.*

- (1) *Manufactured/Mobile home.* Manufacture homes, mobile homes shall be no smaller than 28’ wide by 48’ long and must be on a lot with a minimum size of 100x100 feet. Manufactured or mobile homes are defined in Sec. 1.7.
- (2) *Modular home.* Proposed modular homes shall be reviewed by the planning and zoning commission for recommendation to the Board of Trustees, consist of the following, and may have other restrictions imposed on the structure.
 - i. Constructed to the same state, local or regional building codes as site built homes;
 - ii. A unit that is fabricated at an off-site location in a controlled environment;

- iii. Installed or assembled onto a permanent perimeter foundation at the building site on a recorded village platted lot;
- iv. Be certified and in compliance with the Federal Manufactured Housing Construction and Safety Standards.

(3) Live/work.

- i. The residential portion is clearly and primarily used only for residential purposes including a separate entrance, which does not allow the commercial portion customers access to the residential portion.
- ii. The business owner, and the resident's occupant in the residential portion of the live-work unit, must be the same person.
- iii. The nonresidential portion of a live-work unit may be only a commercial retail, office, personal services or professional services and counseling activity as defined in these regulations.
- iv. Hours of operation for nonresidential use. The nonresidential portion of the use shall not operate between the hours of 11:00 p.m. and 6:00 a.m.
- v. Multiple units. Multiple live-work units may be located on a block face only if developed as a contiguous group with one unit located on a corner lot, and with no more than five units in the group.
- vi. No drive-through activity. The use shall not include a drive-through component.

(4) Home occupation or home-based work.

- i. Shall be in accordance with applicable state law and this code as the same may be amended from time to time.
- ii. The intent of this section is to allow low-intensity home occupations that are clearly incidental and secondary to the primary residential use of the property, and that are conducted in a limited manner which creates little exterior indication of the activity, and which does not create a nuisance or otherwise adversely impact adjacent properties or the residential character of the neighborhood.
- iii. All home occupations shall be required to register upon forms prepared by the zoning administrator for the purpose and shall include a description of the nature and extent of the activity. The applicant shall sign the form verifying that the activity will be conducted in compliance with the standards of operation set out below.

Sec. 1-26. - Accessory use standards.

- (a) *Purpose.* This section authorizes the establishment of accessory uses that are incidental and customarily subordinate to principal uses, provided that the accessory use complies with all applicable standards in this section.
- (b) *Approval of accessory uses and structures.* All principal uses allowed in a zoning district shall be deemed to include those accessory uses, structures and activities typically associated with the use, unless specifically prohibited in this code. No accessory use may be established prior to establishment of the principal use with which such accessory use is associated. All accessory uses shall be subject to the standards in this section, as well as any use-specific standards applicable to the associated principal use as set forth in this code.
- (c) *Interpretation of unidentified accessory uses and structures.* The zoning administrator shall evaluate applications for accessory uses that are not identified in this section on a case-by-case basis, based on the following standards (any determination of the zoning administrator hereunder is subject to review by the Board of Trustees):
 - (1) The definition of "accessory use" in this code, and the general accessory use standards and limitations established in this section;
 - (2) The purpose and intent of the district in which the accessory use is located;
 - (3) Potential adverse impacts the accessory use or structure may have on other lots, compared with other accessory uses permitted in the district; and
 - (4) The compatibility of the accessory use with other principal and accessory uses permitted in the district.
- (d) *General standards.* All accessory uses and structures shall comply with the following general standards:
 - (1) *Compliance with this code.*
 - i. All accessory uses and structures shall be subject to the dimensional requirements of the zoning district in which they are located. In the case of any conflict between the accessory use/structure standards of this section and any other requirement of this code, the more restrictive standards shall control.
 - ii. Accessory uses shall comply with all standards of this code applicable to the principal use with which they are associated.
 - (2) *Location.* The accessory use or structure shall be conducted or located on the same lot(s) as the principal use, and to the rear of the primary structure. No accessory structure shall be located within ten feet of the site's principal

structure unless otherwise specified in this code. When located to the rear of the primary structure, accessory buildings need not comply with the side or rear setback lines applicable to the primary structure, provided that the accessory building is not located closer than five feet from any alley and not closer than five feet from any property line.

- (3) *Size and quantity.* The maximum total size of accessory structures within any residential district shall not exceed the permitted lot development coverage. No accessory structure shall exceed the height of the site's principal structure unless otherwise specified in this code or approved by the planning commission.
- (4) *Same utility meter required.* The principal use and the accessory use shall utilize the same utility meter.
- (5) *Nonresidential uses in residential districts.* Accessory structures in residential districts shall not be used to conduct a retail or construction businesses.

ARTICLE V. – DEVELOPMENT STANDARDS

Sec. 1-27. - Development Standards

(a) Except as hereinafter provided:

- (1) No building or land shall be hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the district in which it is located.
- (2) No building shall be hereafter be erected or altered.

(b) *New development.* The development standards shall apply to all new development unless otherwise specified in the specific regulations.

- (1) *Reconstruction on existing foundation.* Where existing structures are removed, destroyed, demolished, or uninhabitable due to ill repair, fire, or disasters, the existing foundation can be reused, repaired, reconstructed upon so long as the foundation is not expanded or have additions to which were not original or prior to the aforesaid removal of previous structure_being an exception to setbacks.
 - a. *Reuse of foundation.* The house must be clearly dilapidated and the foundation can support a new structure.
 - b. *Building on property lines.* Where the existing foundation is situated in conflict with a parcel, lot, or property line a minor subdivision shall be required per Sec. 1-29.

(c) *Existing development.* The following development standards apply to all existing development.

- (1) *External improvements.* Regular maintenance and repair for the replacement or improvement of external features such as guttering, siding, roofing, units, or other improvements necessary for the upkeep and structure preservation are not subject to these regulations, so long as the structure has not been enlarged or additions created.
- (2) *External additions.* These development standards shall apply to any external addition which may increase lot coverage or structure size, unless otherwise reviewed by the zoning administrator or the planning and zoning commission.
- (3) *Interior changes.* Where interior development, remodeling, or improvements are intended to be performed internally of a structure these development standards do not apply.

Sec. 1-28. – Nonconformities.

(a) *Nonconforming uses.* Where at the time of passage of this chapter lawful use of land exists which would not be permitted by the regulations imposed by this chapter or amendments to this chapter, the use may be continued so long as it remains otherwise lawful, provided:

- a. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance from which this chapter is derived.
- b. No such nonconforming use shall be moved, in whole or in part, to any portion of the parcel other than that occupied by such use at the effective date of adoption or amendment of the ordinance from which this chapter is derived.
- c. If any such nonconforming use of land ceases for any reason for a period of more than 12 months, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.
- d. No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

(b) *Nonconforming Structures.* Where a lawful structure exists at the effective date of adoption, or amendment of the ordinance from which this chapter is derived that could not be built under the terms of this chapter by reason of restrictions on area, parcel coverage, height, yard, site location on the parcel, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(c) Repairs and maintenance.

- a. On any nonconforming structure, or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repair or replacement of nonbearing walls, fixtures, wiring or plumbing, provided that the cubic content existing when it became nonconforming shall not be increased.
- b. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored or rebuilt except in conformity with the regulations of the district in which it is located.
- c. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Sec. 1-29. – Subdivisions.

(a) Applicability and requirements.

- (1) It is unlawful for any person to subdivide land within the village without having first received the approval of the village and upon compliance with the provisions of these regulations.
- (2) Lapse and expiration. The following provisions are applicable to subdivision approvals:
 - i. *Preliminary plat.* Approval of any preliminary plat shall be effective for a period of two years, at the end of which time the first phase of the final plat must be submitted. Approval of the preliminary plat remains in effect continuously if final plats are being filed and approved. If the final plat has not been submitted within two years, or subsequent phases are not submitted and approved every two years, the preliminary plat shall be void and the applicant shall be required to submit a new preliminary plat.
 - ii. *Final plat.* If a final plat is not recorded within two years of the effective date of the ordinance approving it, the approval shall become void and a new preliminary plat must be submitted to the Planning and Zoning commission and Board of Trustees for its consideration.

- (b) Purpose. The purposes of these regulations include, but are not limited to the following:

- (1) Protect the health, safety, and general welfare of the village;
- (2) Guide future growth in accordance with the adopted comprehensive plan;
- (3) Ensure the provision of adequate public facilities and services for subdivisions;
- (4) Protect the character, economic, and social stability of the village;
- (5) Establish reasonable standards for orderly layout of subdivided land;
- (6) Prevent the pollution of air, streams, ponds, lakes; assure the adequacy of drainage facilities; safeguard the water table; encourage the wise use and management of natural resources; preserve the integrity, stability, and beauty of the community and value of the land; and
- (7) Preserve the natural beauty and topography of the village, and ensure appropriate development with regard to those natural features.

(c) *Condominium split.*

- (1) An applicant shall apply for a condominium split if the proposed subdivision meets the following criteria:
 - i. Each parcel shall have frontage on, or permanent and continuous access through common elements to, existing public streets;
 - ii. The project shall not involve any new street, the extension of municipal facilities, or the creation of any public improvements;
 - iii. The project shall not adversely affect the remainder of the parcel or adjoining property; and
 - iv. Neither the project nor the use of a condominium split are in conflict with any provision or portion of the comprehensive plan, major street plan, or zoning regulations, and shall otherwise be in conformance with all applicable village regulations.
- (2) *Recordation.* Condominium splits shall follow the same review and recordation process as outlined in Minor Subdivision recordation.

(d) *Minor Subdivision.*

- (1) *Application.* The applicant shall be required to submit an application for a minor subdivision on forms available from the clerk along with the applicable fee as provided in the village fee schedule. The application shall include a certified plat for review.

- i. The certified plats shall be prepared by a registered surveyor in conformance with this section.
- ii. The plats shall show all existing buildings, utilities, sanitary sewers, water mains, drainage ditches, easements, and other features pertinent to proper land division and compliance with this code. The zoning administrator may require additional information as necessary for making a determination.

(2) *Review.*

- i. Minor subdivision applications will be reviewed by zoning administrator and the Planning and Zoning Commission to determine if they meet the requirements for the minor subdivision procedure.
- ii. If the application is determined to be eligible for the minor subdivision process, the zoning administrator will notify the applicant in writing of the approval, conditional approval, or rejection of the plat within 21 days of receipt of a complete application.
- iii. The determination of the zoning administrator shall be the final action on minor subdivision procedures. If the minor subdivision is denied, the applicant may appeal to the board of adjustment in accordance with the procedures in this chapter. The Board of Trustees retain the authority to review, and reverse, any administrative approval of a Minor Subdivision within 21 days of the decision of the zoning administrator.

(3) *Recordation.*

- i. When conditional approval of the minor subdivision is granted, the conditions imposed shall be complied with prior to the documents being signed and recorded.
- ii. If approval of the minor subdivision is granted, the applicant shall pay any applicable fees from new parcels created and shall supply the village with four paper copies.
- iii. These documents shall show all information required under this chapter and the signature block shall read:

The undersigned proprietors of the property described herein have the same to be subdivided in the manner shown on this plat, and said property shall hereafter be known as _____.

It shall be sufficient description of the parcels on this plat to hereafter designate the same by the number appearing near the center of the parcels followed by the block number appearing near the center of the respective blocks followed by the words _____:

An easement or license is hereby granted to the Village of Coney Island, Missouri, to locate, construct and maintain, and to authorize the location, construction, maintenance, or use of conduits, for all and any purpose, water, gas, and sewer mains, poles, wires, anchors and appurtenances thereto, or any or all of them over, under, and along the strip of land outlined on this plat and designated "UTILITY EASEMENT" or "U.E."

In testimony whereof, the undersigned proprietors have hereunto set their hands this ____ day of _____ 20____.

STATE OF MISSOURI

COUNTY OF STONE

On this _____ day of _____,

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in said County and State and day and year last written above. _____

Notary Public

My Commission Expires: _____

(4) Approved by the Zoning Administrator under the authority of the Board of Trustees of Coney Island, Missouri this _____ day of _____ 20 ____.

ARTICLE VI. – PLANNING AND ZONING COMMISSION

Sec. 1-30. - Authority.

- (a) *Planning and zoning commission, powers, and duties.* The planning and zoning commission shall be guided by and set under the applicable laws of the state. The commission has the principal duty of acting as an advisory body to the Board of Trustees. The commission shall report on all proposed changes in the zoning code when adopted; shall review of proposed development; to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein; and may recommend plans and physical improvement programs for the village to the board. The Board of Trustees will have the final authority to vote on proposed changes presented by the Planning and Zoning Commission.
- (b) *Intent.* The commission and Board of Trustees shall adopt, amend, and carry out the village plan, and the Board of Trustees shall appoint a planning and zoning commission with the powers and duties as described in this article.
- (c) *Members and term.*
 - (1) The planning and zoning commission members shall be comprised of seven (7) members, but not more than fifteen (15). The term of each of the citizen

members shall be for four (4) years, except that the terms of the citizen members first appointed shall be for varying periods so that succeeding terms will be staggered. Any vacancy in a membership shall be filled for the unexpired term by appointment as aforesaid.

- (2) Members shall be appointed by the Chairperson, with approval of a majority of the Board of Trustees, each member shall be a resident of the Village. There is no limit to the number of terms that may be served. Any vacancy in the membership shall be filled by appointment as described above for the remainder of the expiring term.
- (3) *Board of Trustees Chairperson.* The chairperson can choose to be a member if they so choose.
- (4) *Trustee member.* A member of the Board of Trustees selected by the Board, if it so chooses to have a member serve on the commission.

Sec. 1-31. – Meetings.

(a) Notice and scheduled meetings.

- (1) *Regular.* Meetings are to be held on the 2nd Saturday of each month with a minimum 24 hour public notice (in accordance with Chapter 610 RSMo), when special circumstances exist, then the public notice may have a required public notice period.
- (2) *Special meetings.* Special meetings need a 48 hour public notice, except where this code requires fifteen (15) days prior notice of a public hearing.
- (3) *Cancellation.* Canceled meetings shall be posted virtually or public posting area if not meeting shall be held.

(b) Board of Trustee involvement. In the event the Trustees do not elect to have a member of the Board serve on the Planning and Zoning Commission, a Board of Trustee member (if available) shall be present during planning and zoning commission meetings, as a non-voting member to serve as a liaison to the Board of Trustees.

(c) Meeting requirements.

- (1) Meetings shall be in held and documented in accordance with the Missouri Sunshine Law and Robert’s Rules of Order.
- (2) The planning and zoning commission shall elect a chairperson and secretary from among its citizen members. The term of chairman and secretary shall be for one (1) year with eligibility for reelection.

- (3) There shall be not more than fifteen (15) nor less than five (5) citizens appointed by the Board of Trustees.
- (4) All citizen members of the commission shall serve without compensation.
- (5) The Board of Trustees may remove any citizen member for cause stated in writing and after public hearing and members shall not miss more than two (3) consecutive meetings, if so the commissioner can be removed from the commission.
- (6) The planning and zoning commission shall hold regular meetings and special meetings as they provide by rules, and shall adopt rules for the transaction of business, and keep a record of its proceedings and shall be public records.
- (7) It shall be necessary for the smallest number of members constituting more than 50% of the planning and zoning commission's to be present at any meeting for the conduct of business and establish a quorum.
- (8) The Board of Trustees may appoint a zoning administrator or authorized representative as necessary for its work and may contract with the Planning and Zoning Commission, community planners and other professional persons for the services that it requires.
- (9) The expenditures of the planning and zoning commission, exclusive of grants and gifts, shall be within the amounts appropriated for the purpose by the board.

Sec. 1-32. – Applications.

- (a) *Zoning.* All applications for rezoning must be submitted to the commission for consideration.
- (b) *Annexation.* All applications for annexation or de-annexation must be submitted to the commission for consideration.
- (c) *Fees.* Each application must be accompanied by a fee set by the Board of Trustees.
 - (1) Said fee is to cover costs and publication expenses, if any.
 - (2) Any excess paid by the applicant will be returned to the applicant and any deficiency is to be paid by the applicant.
 - (3) The fee shall not be refundable if the applicant does not go ahead with the request during or after publication or after administrative site plan review.

ARTICLE VII. – BOARD OF ADJUSTMENT

Sec. 1-33. – Authority.

(a) *Board of Adjustment powers, and duties.* The board of adjustment shall be guided by and set under the applicable laws of the state. Appeals to the board of adjustment may be taken by any person aggrieved, by any neighborhood organization representing such person, or by any officer, department, board or bureau of the municipality affected by any decision of the zoning administrator, authorized representative or planning and zoning commission. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certification a stay would, in his opinion, cause immediate peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown.

(b) *Intent.*

- (1) It is the intent of this code that all questions of interpretation and enforcement shall be first presented to the zoning administrator, and that such questions shall be presented to the board of adjustment only on appeal from the decision of the administrative official, and that recourse from the decisions of the board of adjustment shall be to the courts as provided by state law.
- (2) It is further the intent of this code that the duties of the board in connection with this code shall not include hearing and deciding questions of interpretation and enforcement that arise. The procedure for deciding such questions shall be as stated in this section and this code. Under this code, the board shall have only the following duty:
 - (3) Considering the adopting or rejecting of proposed amendments, or the repeal of this code, as provided by law.

(c) *Limited powers for a variance.*

- (1) Financial disadvantages to the property owner shall not constitute conclusive proof of unnecessary hardships within the purpose of zoning.

- (2) The Board does not possess the power to grant a variance permitting a zoned use of land or building that is not permitted as a principal use of structure, accessory use or structure in the district involved.
- (3) The variance is not transferable to any further owner of the subject property unless stipulated as a continuing variance by the Board. Also, the variance cannot be transferred by the applicant to a different site.
- (4) A variance shall continue for an indefinite period of time unless otherwise specified at the time the variance is granted, except that when a variance has not been used within one (1) year after the date it was granted, the variance shall be canceled by the Administrative Official and written notices shall be given to the property owner.

(d) *Members and term.*

- (1) A board of adjustment is hereby established, which shall consist of five (5) members appointed by the Board of Trustees who are residents of the Village of Coney Island.
- (2) The membership of the first board of adjustment shall serve respectively, one (1) for one year, one (1) for two years, one (1) for three years, one (1) for four years, and one (1) for five years. Thereafter members shall be appointed for a term of five (5) years.
- (3) Three (3) alternate members may be appointed to serve in the absence of or the disqualification of regular members.
- (4) Vacancies shall be filled by resolution of the Board of Trustees for the length of the unexpired term.
- (5) Members and alternates of the board adjustment may be removed from office by the board for cause upon written charges and after public hearings.

Sec. 1-34. – Meetings.

- (a) *Scheduled meetings.* The board of adjustment shall adopt dates and times for regular scheduled meetings and may amend meeting dates, as necessary.
- (b) *Cancelation.* Canceled meeting shall be posted virtually or public posting area if not meeting shall be held.
- (c) *Notice.*
 - (1) *Public notice and location.* The board of adjustment shall fix a reasonable time for the hearing the appeal, give public notice thereof, as well as due notice to

the parties in interest, and decide the same within a reasonable time and location. Upon the hearing any party may appear in person or by agent or by attorney.

(d) *Meeting requirements.*

- (1) The board of the adjustment shall adopt the rules necessary to conduct of its affairs.
- (2) The board shall elect its own chairman who shall serve for one (1) year.
- (3) All meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence the acting chairman or vice chairman may administer oaths and compel the attendance of witness.
- (4) All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, show the vote of each member upon question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.
- (5) Meetings may be held virtually, in-person or combination of both, so long as the public has had adequate time to attend the meeting with sufficient public notice.
- (6) All testimony, objections thereto and rulings thereon, shall be taken down by a reporter employed by the board for that purpose.

Sec. 1-35. - Applications.

(a) *Powers.* The board of adjustment shall have the following powers and duties:

- (1) *Administrative review.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an zoning administrator in the enforcement of this code.
- (2) *Variances.* To authorize upon appeal in specific cases such variance from the bulk or area regulations of this chapter, as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this code would result in unnecessary hardship. A variance from the terms of this zoning code shall not be granted by the board of adjustment unless and until:
 - i. A written application for a variance is submitted by the owner of the property or with the written permission of the property owner demonstrating:

1. That special conditions and circumstance exist which are peculiar to the land or structure involved and which are not applicable to other land or structures in the same district;
2. The literal interpretation of the provisions of this code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this code;
3. That the special conditions and circumstances do not result from the actions of the applicant;
4. The board of adjustment shall further make a finding that the granting of the variance is the minimum variance that will make possible the reasonable use of the land or structure.
5. That granting the variance requested will not confer on the applicant any special privilege that is denied by this code to other lands or structures in the same district.

(3) To hear and decide all matter referred to it or upon which is required to pass under this title.

(b) *Fees.* Under this code, the Village of Coney shall have the following duty of establishing a schedule of fees and charges as stated below:

- (1) *Appeal fee.* Such application shall be accompanied by a fee in the amount provided in the village fee schedule to cover costs associated. An appeal shall be construed as having been perfected once the application and fee has been received.
- (2) *Variance fee.* Such application shall be accompanied by a fee in the amount provided in the village fee schedule.
- (3) *Other fees.* To defray costs of proceedings prescribed in this article, fees shall be paid upon the filing of each application for posting and publishing all notices before the board of adjustment as required by law.

(c) *Variance approval.*

- (1) The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to affect any variation in the application of this code.

- (2) Approval is only given for the specific application, and shall not be construed so as to amend or affect any portion of this zoning code. Any deviation from the approved variance or violation of any condition of approval of a variance, shall nullify the approval.
- (3) The variance is approved for one (1) year from date to date. If no action has not been taken or the variance has not been used within one (1) year after the date it was granted, the variance shall be canceled by default. An official action shall count as a letter in writing for a delay, approved permits, or request for an extension from the original applicant.
- (4) Granting of a variance does not exclude the applicant or representative from further deviation from code and shall follow all other application and fee requirements.

Sec. 1-36. – Appeal from the board.

- (a) Any person or persons, or any board, taxpayer, department, or bureau of the city, aggrieved by any decision of the board of adjustment may seek review of such decision by a court of record, in the manner provided by the laws of the state.

Section Two. This Ordinance shall be in full force and effect from and after its passage and approval by the Village.

PASSED BY THE BOARD OF TRUSTEES FOR THE VILLAGE OF CONEY ISLAND THIS _____ DAY OF _____, 2023.

Chairman of the Board of Trustees

Attest:

Village Clerk