Chapter 11 ZONING PROCEDURES

10-11-1 PLANNING AND ZONING COMMISSION (PZC) MEETINGS
10-11-2 PZC QUORUM
10-11-3 PZC RECORDS AND VILLAGE BOARD ZONING DECISIONS
10-11-4 APPEALS
10-11-5 VARIANCES
10-11-6 SPECIAL USE PERMITS
10-11-7 AMENDMENTS

10-11-1 PLANNING AND ZONING COMMISSION (PZC) MEETINGS

(A) All meetings of the PZC shall be held at the call of the PZC Chair or the Village President and at such times as the PZC may determine. All PZC meetings shall be open to the public.

(B) The PZC may adopt their own rules of meeting procedures consistent with this Ordinance and the applicable Illinois statutes. The chair, or in his or her absence, the acting chair, may administer oaths and compel the attendance of witnesses.

(C) Four members of the PZC shall constitute a quorum, and the affirmative vote of at least four members shall be necessary to authorize any PZC action.

10-11-2 PZC QUORUM

The concurring vote of four members of the PZC shall be necessary to make a recommendation to the Village Board regarding a Finding of Fact and specific zoning request.

10-11-3 PZC RECORDS AND VILLAGE BOARD ZONING DECISIONS

(A) The Village Clerk shall attend all meetings and public hearings held at the PZC and shall serve as secretary to the PZC, keeping a full record and providing written minutes of the PZC's proceedings and actions. The written PZC minutes shall indicate the absence of any member, the vote or abstention of each member on each question, and any official action taken, including findings of fact for variance or a special use requests considered. The Village Clerk shall submit written minutes of PZC minutes to the PZC chairperson for his approval and correction, and shall make available the corrected PZC minutes to the Village Board prior to the next Village Board meeting.

(B) A copy of every recommendation of the PZC, once forwarded to the Village Board and on file with the Village, shall be a public record.

(C) Village Board Decisions and Period of Validity

No decision by the Village Board in granting a variance or a special use permit shall be valid for a period longer than 12 months from the date of such decision unless:

i. an application for a zoning permit or special use permit is obtained within such period and construction, moving, remodeling, or reconstruction is started, or
ii. a certificate of compliance is issued and a use is commenced.

However, the Village Board may grant additional extensions of time not exceeding 180 days, each upon written application made within the initial 12-month period without further notice or hearing, but said right to so extend said time shall not include the right to grant additional relief by expanding the scope of the variation.

(D) Finality of Decisions of the Village Board

All decisions of the Village Board, shall in all instances be the final administrative determination and shall be subject to review by a court in the manner provided by applicable Illinois statutes. No applicant shall apply for the same or identical request for a period of one year unless the facts and/or request have substantially changed.

10-11-4 APPEALS

(A) Nature of an Appeal

Any person aggrieved by any decision or order of the Zoning Administrator in any matter related to the interpretation or enforcement of any provision of this Ordinance may appeal to the PZC. An appeal may consist of a request for a determination with regard to the exact location of any district boundary if there is uncertainty with respect thereto.

(B) Application, Filing, Record Transmittal

1. An appeal may be taken to the PZC by any person, group or organization, public or private, affected by a decision by the Zoning Administrator,

2. An appeal shall be made on a prescribed form available from the Village Office within 45 days of the matter complained of by filing with the Zoning Administrator and the PZC Chair a written notice specifying the grounds for appeal. The appeal application shall describe the order, requirement, decision or determination appealed from and shall specify the grounds for the appeal.

3. A fee for an appeal application as approved by the Village Board and listed in the Village Schedule of Permits and Fees shall accompany each application for an appeal.

(C) Stay of Further Proceedings

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

(D) Appeal Procedure and Public Hearing

1. Upon receipt of the notice of an appeal application, the Zoning Administrator shall transmit to the Village Office all the documents and files constituting the record upon which the action appealed from was taken.

2. The PZC Chair shall fix a reasonable time for the hearing on the appeal and inform the Village Office and Village Board of the time and place that the hearing will be held. The Village Board designee shall arrange that due notice of the hearing be provided, in writing, to the appellant, to the Zoning Administrator, to PZC members, and to any other person directly interested in the outcome of the appeal. The appellant may appear before the PZC on the appeal and may be represented by counsel. It shall not be necessary to publish any notice of a hearing on an appeal.

(E) PZC Recommendation to Village Board

1. The PZC may recommend that the Village Board reverse or affirm, wholly or partly, or may modify or amend the decision or order appealed from the extent and in the manner that they deem appropriate.

2. Following the hearing on the appeal at the PZC, the Village Clerk provide the PZC recommendation on the appeal to the Village Board.

(F) Village Board Decision

The Village Board shall make its decision with regard to the appeal at the next regularly scheduled Village Board meeting following receipt of the PZC recommendation.

10-11-5 VARIANCES

(A) A variance is a relaxation of the requirements of this Ordinance that are applicable to a particular lot or structure.

(B) A so-called “use variance” that would allow a use that is neither a permitted nor a special use in the district in question is not a variance, but it is an amendment. Amendment requests shall be addressed only as provided for in Section 10-11-7 of this Chapter.

(C) Application

Every application for a variance shall be filed with the Village Office on a prescribed form. A fee for a variance application as approved by the Village Board and listed in the Village Schedule of Permits and Fees shall accompany each variance application.

Village Office staff shall promptly transmit said application to the PZC. The application shall contain sufficient information to allow the PZC to make an informed Findings of Fact and its recommendation to the Village Board. The application shall include, at a minimum, the following:

i. name and address of the applicant and of the property owner, if other than the applicant;
ii. location of the structure/use for which the variance is sought;
iii. brief description of adjacent lots, structures, and/or uses;
iv. brief description of the problems/circumstances engendering the variance request;
v. brief, but specific, explanation of the desired variance;
vi. specific section(s) of this Ordinance containing the regulations which, if strictly applied, would cause a serious problem; and
vii. other pertinent information.

(D) Public Hearing, Notice

The PZC Chair shall fix a reasonable time for the public hearing on each variance request upon submittal of a completed variance application. At the hearing any interested party may appear and testify either in person or by duly authorized agent or attorney.

The Village Board shall arrange for notice of the public hearing, indicating the time, date, and place of the hearing, and the nature of the requested variance, to be provided not more than 30 days or less than 15 days before the hearing:

i. by first class mail to the applicant and to the record owner of the subject property;
ii. by publication in a newspaper of general circulation within the village; and
iii. by first-class mail to record owners of property located within 250 feet of the subject property.

(E) Standards for Variances

1. The PZC shall not recommend any variance unless they find that the proposed variance is consistent with the general purposes of this Ordinance, and that the strict application of the district requirements would result in great practical difficulties of hardship to the applicant. More specifically, the PZC shall not decide upon a variance unless they determine, based upon the evidence presented to them, that:
    i. the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;
    ii. the plight of the owner is due to peculiar circumstances; and
    iii. the variance, if granted, will not alter the essential character of the locality.

2. The PZC may recommend a variance of the application of the regulations imposed by this Ordinance to permit:
   i. the reduction of the depth or width of a required yard specified in the Chapter 3 district standards, or if not specified in Chapter 3, the reduction of the depth or width of a required yard by not more than 25 percent of the depth or width required by this Ordinance; and
   ii. in the Town Center District or General Commercial District, to permit a reduction in the number of off-street parking spaces required about or in connection with a use, and for the same district to permit greater coverage than required by the applicable regulations and to permit the use of a lot for a use otherwise prohibited solely because of the insufficient area of the lot.

(F) PZC Recommendation to Village Board

1. The PZC findings of fact shall clearly indicate the PZC's reasons for recommending that a requested variance be granted or denied.

2. Following a public hearing at the PZC, the Village Clerk shall provide the PZC recommendation to the Village Board on the variance request along with the written statement of the PZC Findings of Fact on which the recommendation is based.

(G) Village Board Decision

The Village Board shall decide on every variance request within a reasonable period following the final public hearing thereon. A copy of the Village Board decision shall be transmitted to the applicant or appellant. The Village Board shall specify the terms of relief recommended (if any).

10-11-6 SPECIAL USE PERMITS

(A) Intent

This Ordinance divides the Village into districts, and allows in each district as a matter of right subject to issuance of a zoning permit only those uses that are clearly compatible with one another. Certain other principal uses, designated as a 'Special Use' and listed in Table 10-5A of this Ordinance because of their special operational or physical characteristics, may or may not have a detrimental impact on nearby permitted uses, depending upon their precise location, manner of operation and other factors. A special use permit is required for the authorized principal uses so indicated.

(B) Application

1. Every applicant for a special use permit shall submit to the village office in

narrative and/or graphic form, the items of information below:

i. name and address of the applicant;
ii. name and address of the owner or operator of the proposed structure or use, if different from that noted in item i above;
iii. nature of the proposed use, including type of activity, manner of operation, number of occupants or employees, and similar matters;
iv. location of the proposed use or structure, and its relationship to existing uses of structures on adjacent lots;
v. area and dimensions of the site for the proposed structure or use;
vi. existing topography of the site and proposed finished grade;
vii. existing and proposed screening, landscaping, and erosion control features on the site, including the parking area;
viii. height and setbacks of the proposed structure;
ix. number and size of the proposed dwelling units, if any;
x. number and location of proposed parking/loading spaces and access ways;
xi. identification and location of all existing or proposed utilities, whether public or private;
xii. location of any signs; and
xiii. other pertinent information.

2. A fee for a special use permit application as approved by the Village Board and listed in the Village Schedule of Permits and Fees must accompany each special use permit application.

(C) Public Hearing, Notice

The PZC Chair shall fix a reasonable time for the public hearing on each special use permit request upon the submittal of a completed special use permit application. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney.

The Village Board shall arrange for notice of the public hearing, indicating the time, date, and place of the hearing, and the nature of the requested special use permit to be provided not more than 30 days or less than 15 days before the hearing:

i. by first class mail to the applicant and to the record owner of the subject property;
ii. by publication in a newspaper of general circulation within the village; and
iii. by first class mail to the record owners of property located within 250 feet of the subject property.

(D) Special Use Permit Standards

Following public input received at the public hearing, the PZC shall make Findings of Fact with regard to each special use permit request considered. The PZC may recommend and the Village Board, in turn, may impose such conditions as will, in the judgement of each respective body, with regard to and to ensure that:

1. The proposed special use permit is necessary for the public convenience at that location.

2. The proposed design, location, and manner of operation of the special use permit requested will adequately protect the public health, safety, and welfare, and the physical environment.

3. The intensity of the proposed development does not impose any adverse effects on surrounding property, public utilities and on the traffic circulation on nearby streets.

4. The proposed special use permit is compatible with surrounding land use.

5. The proposed special use permit requested conforms to the intent, regulations, and standards of and preserves the essential character of the district in which it is proposed to be located.

(E) PZC Findings of Fact and Recommendation to Village Board

1. The PZC findings of fact shall clearly indicate the PZC's reasons for recommending that a requested special use permit be granted or denied.

2. Following a public hearing at the PZC, the Village Clerk shall provide the PZC recommendation to the Village Board on the special use permit request along with the written statement of the PZC Findings of Fact on which the recommendation is based.

3. The PZC may recommend and the Village Board may prescribe special conditions for a special use to preserve the general public health, safety and welfare, and these terms and conditions of the special use (if any) shall be specified in one statement.

(F) Village Board Decision

1. The Village Board, upon receiving a the PZC Findings of Fact and recommendation, shall act upon said recommendation within a reasonable period of time and shall either accept or reverse the recommendation in whole or in part or return the request to the PZC for further study.

2. It shall require two-thirds vote of all Village Board members to reverse a recommendation of denial received from the PZC.

3. A copy of the Village Board decision shall be transmitted to the applicant or appellant.

10-11-7 AMENDMENTS

(A) Amendments

The Village Board may amend this Ordinance in accordance with the provisions of this Section based on Illinois Statutes (65 ILCS 5/11-13-14). Proposed alterations of district boundaries or proposed changes in the status of uses (permitted, special use, prohibited) shall be deemed proposed amendments. Amendments may be proposed by the Village President, PZC, Zoning Administrator, or an interested party.

(B) Filing

1. Every proposal to amend this Ordinance shall be filed with the Village Office on a prescribed form.

2. A fee for a text amendment or map amendment application as approved by the Village Board and listed in the Village Schedule of Permits and Fees must accompany each amendment application.

(C) Public Hearing - Notice

1. The PZC Chair shall fix a reasonable time for the public hearing on every amendment proposal requested upon submittal of a completed text or map amendment application.

2. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney.

3. (a) The Village Board shall arrange for notice of the public hearing to indicate the time, date, and place of the hearing, the nature of the proposed amendment, and, if the boundaries of a district are proposed to be changed, the notice shall contain a description of the area for which the change is proposed. Any notice required by this section need not include a metes and bounds legal description, provided that the notice includes:
   i. the common street address or addresses and
   ii. the property index number (“PIN”) or numbers of all the parcels of real property contained in the affected area.

   (b) Such notice shall be given not more than 30 or less than 15 days before the hearing:
   i. by first class mail to the applicant, and, if with regard to a map amendment proposal, by certified mail to the record owner(s) of the subject property;
   ii. by publication in a newspaper of general circulation within the village;
   iii. if with regard to a map amendment proposal, by first class mail to

the record owner(s) of property located within 250 feet of the subject property.

(D) PZC Recommendation to the Village Board

1. If the effect of the proposed amendment would be to alter district boundaries or to change the status of any use, the PZC recommendation to the Village Board may include their consideration of each of the following factors:
   i. existing use and zoning of the property in question;
   ii. existing uses and zoning of other lots in the vicinity of the property in question;
   iii. suitability of the property in question for uses already permitted under existing regulations;
   iv. compatibility and suitability of the proposed use and the property in question for the proposed use;
   v. the trend of development in the vicinity of the property in question, including changes (if any) which may have occurred since that property was initially zoned or last rezoned.

2. Following the public hearing at the PZC for an amendment request, the Village Clerk shall provide the PZC recommendation regarding a decision for an amendment request to the Village Board. The recommendation shall include PZC reasons for their recommendation regarding adoption or denial of the proposed amendment.

(E) Action by Village Board

1. Following receipt of the PZC recommendation regarding a decision for an amendment request, the Village Board shall act on every proposed amendment within a reasonable time at a regularly scheduled Village Board meeting.

2. Without further public hearing, the Village Board may approve or disapprove any proposed amendment or may refer it back to the PZC for further consideration by simple majority vote of all the members then holding office.

(F) When a Two-Thirds Majority Vote is Required

The favorable vote of at least two-thirds of the members of the Village Board is required to pass an amendment to this Ordinance in each of the following instances:

i. when passage would be contrary to the recommendation of the PZC; or
ii. when the amendment is opposed, in writing, by the owners of 20 percent of the frontage proposed to be altered, or by the owners of 20 percent of the frontage immediately adjoining or across an alley there from, or by the owners of 20 percent of the frontage directly opposite the frontage proposed to be altered.

(G) Notice to Applicant of Written Protest

In cases of written opposition to an amendment of this Ordinance as prescribed in Paragraph (F) above, a copy of the written protest shall be served by the protester or protesters on the applicant for the proposed amendment and a copy upon the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment.