

ARTICLE 3. APPLICATION PROCEDURES

NOTES ON REVISIONS

Application Size: We have revised application size requirements. 8.5" x11" folded is a more common size to fold applications to (for example, 11"x17" folded in half).

Deadline Provisions: We removed the following three deadline provisions because of the administrative complications they can create. This was simplified to a completeness statement with deadlines moved to the actual application-specific requirements.

- 1. An application requiring a public hearing will be scheduled for a public hearing if it is filed no later than thirty (30) days preceding the requested hearing date, in proper form and number, and containing all required information. An application so filed will be scheduled for hearing on the requested hearing date, or on the first available date thereafter on a first-filed/first-scheduled basis.*
- 2. An application that does not require a public hearing shall be filed at least thirty (30) days prior to the time when action on the application is requested, in proper form and number, and containing all required information. An application so filed will be processed on a first-filed/first-processed basis.*
- 3. Whenever supplemental data in connection with a previously filed application is required by the Village or offered by the applicant, it shall be submitted at least seven (7) days prior to the date on which it is to be considered at a hearing or meeting, or acted upon in connection with such application. The filing of such data shall, in the discretion of the Zoning Administrator and of the body hearing the application, be cause to delay a requested or scheduled hearing date.*

Fees: The fee requirements were simplified to state that the Village Board shall set appropriate fees.

Staff Review of Applications: Sec. 3.5.B - We revised this section to reflect current Village practice where staff reviews applications and provides comment to the body conducting the hearing.

Notice: We simplified the notice requirements for readability. They remain consistent with Illinois zoning law.

Public Hearing: This has been rewritten to reflect Illinois statute to allow the body conducting the hearing to re-open the public hearing so long as the date of continuance is announced at the public hearing (i.e., the Village would not have to re-notice).

Eminent Domain: Eminent domain requirements have been moved out of the Code because it is not a zoning matter. (See reference document after Article 4 for these provisions.)

Comprehensive Plan: The rules for creating and amending a comprehensive plan should not be part of a zoning code. These belong in a separate section of the Village Code. Therefore, notice for comprehensive plan amendments have been stricken. (See reference document after Article 4 for these provisions.)

ARTICLE 3. APPLICATION PROCEDURES

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3.1 PURPOSE

The purpose of this Article is to outline the general application, fee, notice, public hearing and extension of time procedures for the zoning applications and approvals found within this Code.

3.2 APPLICATIONS

A. Filing

1. All applications filed pursuant to this Code shall be filed with the Zoning Administrator.
2. All applications shall be filed on forms supplied by the Village and shall be filed in such number of copies as the Zoning Administrator may require by administrative order. All plans filed as part of any application shall be at a scale sufficient to permit a clear and precise understanding of the contents of said plans and the proposal being made, and shall be folded to a size of eight and one-half (8½) inches by eleven (11) inches.
3. In addition to any Village departments or commissions that receive the initial application for review, the Zoning Administrator shall determine if input from other departments or commissions is necessary and shall refer such application to such departments or commissions.
4. Applications proposed by the Village Board, Plan Commission or Zoning Board of Appeals shall not be subject to application requirements or fees but shall be transmitted to the Zoning Administrator in such form as appropriate to the initiating body.

B. Completeness

The Zoning Administrator shall determine whether the application is complete. If the application is not complete, the Zoning Administrator shall notify the applicant of any deficiencies within thirty (30) days, and shall take no steps to process the application until the deficiencies are remedied. Once the Zoning Administrator determines that the application is complete, the application shall be scheduled for consideration by the appropriate board, commission or official. No application filed pursuant to this Code shall be considered complete until all fees have been paid.

C. Minimum Requirements

Every application submitted pursuant to this Code shall contain such information as is required by the Village, which may be revised from time to time. Application requirements shall be established by administrative order and shall be made available to all applicants by the Village.

D. Special Data Requests

In addition to the required data and information, every applicant shall submit additional data, information or documentation as the Zoning Administrator or any board or commission before which the application is pending may deem necessary or appropriate for a full and proper consideration and disposition of the particular application.

E. Waiver of Requirements

The Zoning Administrator shall have the authority to waive any requirement set forth in this section when, in his/her judgment, such waiver is appropriate in light of the nature and extent of the relief being sought or in light of special circumstances making compliance with those provisions either unnecessary or unduly burdensome. However, the Zoning Administrator may not waive required fees unless a hardship is determined as described in Section 3.3.F (Hardship) below. The Zoning Administrator shall provide, in writing, the reasons why any such requirement has been waived, and shall refer such writing to the appropriate boards and commissions. However, any board or commission before which such application may come shall continue to have the right to request additional information and to delay processing of such application until such information is provided.

F. Concurrent Applications

When a proposed use or development requires more than one (1) approval pursuant to this Code, applications for such approvals may be filed concurrently, notwithstanding the fact that approval of one (1) application may be a precondition to approval of other applications. Such applications may, in the discretion of those charged with review of such applications, be processed together. No application shall be approved unless all applications that are a precondition to its approval have first been approved. However, in the case of a planned development, a rezoning application must be approved prior to filing of a preliminary plan.

G. Withdrawal of Application

An applicant may withdraw an application at any time prior to a final decision having been rendered with respect thereto, provided that the applicant shall have paid all applicable fees. Such withdrawal shall be without prejudice to the applicant's right to re-file such application, but any such re-filing shall be treated as an entirely new filing and shall be subject to the procedures and fees of this Code in the same manner as any other new application.

H. Successive Applications

1. When any application filed pursuant to this Code has been denied on its merit, a second application seeking essentially the same relief, whether or not in the same form or on the same theory, shall not be brought unless, in the opinion of the officer, board or commission before which it is brought, there is substantial new evidence available or a mistake of law or fact that significantly affected the prior denial. Any such second application shall include a detailed statement of the grounds justifying consideration of such application.
2. A second application, as described in Paragraph 1, above, may be summarily denied by the Zoning Administrator without hearing on a finding that no grounds appear that warrant a new hearing.

3. In any case where such application is set for hearing, the applicant shall be required to establish grounds warranting reconsideration of the merits of its application prior to being allowed to offer any evidence on the merits. Unless such grounds are established, the application may be summarily dismissed for such failure.
4. Two (2) years after the final denial of a prior application, an application may be resubmitted, whether or not new grounds are stated, and shall be heard on the merits as though no prior application had been filed. The applicant shall, however, be required to place in the record all evidence available concerning changes of conditions or new facts that have developed since the denial of the first application. In the absence of such evidence, it shall be presumed that no new facts exist to support the new petition that did not exist at the time of the denial of the first application.

3.3 FEES

A. Application Fee

1. Every application filed pursuant to this Code shall be accompanied by a non-refundable application and filing fee as set by the Village Board, plus the cost incurred by the Village in processing the application as described in Paragraph B, below. The owner of the property that is the subject of the application and, if different, the applicant shall be jointly and severally liable for the payment of said fee.
2. By signing the application, the owner shall be deemed to have agreed to pay such fee, and to consent to the filing and foreclosure of a lien on the subject property to ensure collection of any such fee, plus the costs of collection, in the event such fee has not been properly paid as required with the filing of the application. Any lien filed pursuant to this section may be foreclosed in the manner provided by statute for mortgages or mechanics' liens.

B. Recoverable Costs

The costs incurred by the Village in processing an application shall include, but is not limited to, the following items of direct and indirect expense:

1. Legal publication (direct cost)
2. Recording secretarial service (direct cost)
3. Court reporter (direct cost)
4. Document preparation and review: hourly salary times a multiplier to be established from time to time by administrative order of the Zoning Administrator at a level sufficient to recover one-hundred percent (100%) of the direct and indirect cost of such service
5. Copy reproduction (direct cost)
6. Document recordation (direct cost)
7. Inspection fees (direct cost)
8. Professional and technical consultant services (direct cost)
9. Legal review, consultation and advice (direct cost)

C. Notification

The Village shall notify an applicant when the costs incurred in processing that applicant's application surpass five-thousand dollars (\$5,000.00), and shall notify such applicant when such costs surpass each five-thousand dollar (\$5,000.00) increment greater than the initial five-thousand dollars (\$5,000.00). The failure of the Village to notify any such applicant shall not relieve such applicant of the duty to pay all such costs and shall not prevent the Village from assessing and collecting all such costs.

D. Fee Required for Completeness

1. No application filed pursuant to this Code shall be considered complete until all fees have been paid. Every approval granted and every permit issued pursuant to this Code, whether or not expressly so conditioned, shall be deemed to be conditioned upon payment of required fees.
2. When this Code provides that the passage of time without decision or action shall be deemed an approval or a recommendation for approval, all time periods shall be tolled during any period of non-payment, but shall otherwise continue to run.
3. The failure to fully pay any such fee when due shall be grounds for refusing to process an application and for denying or revoking any permit or approval sought or issued with respect to the land or development to which the unpaid fee relates.

E. Waiver for Specified Public Bodies

The provisions of this section may be waived by the Village Board for fees applicable to any application filed by: 1) any public body; 2) any agency deriving the majority of its revenues from taxes levied within the Village; or 3) any charitable organization.

F. Hardship

The Zoning Administrator may reduce or waive any fee required in this section, but only after a showing by the applicant, in writing, of a particular hardship caused by the application of such fee.

3.4 NOTICE

A. Published Notices

1. Published notice in accordance with this section, shall be required for the following applications:
 - a. All applications that require a public hearing.
 - b. All applications for a public meeting for design review for a non-residential property located within two-hundred fifty (250) feet from a single-family residential zoning district.
2. The Village shall publish notice in a newspaper of general circulation within the Village. The notice shall include the date, time, place and purpose of such hearing or meeting, the name of the applicant, and the address of the subject property. Such notice shall be published no less than fifteen (15) days, nor more than thirty (30) days, in advance of the scheduled hearing or meeting date.

B. Mailed Notice

1. Mailed notice in accordance with this section, shall be required for the following applications:
 - a. All applications that require a public hearing.
 - b. All applications for a public meeting for design review for a non-residential property located within two-hundred fifty (250) feet from a single-family residential zoning district.
2. Mailed notice, on forms provided by the Zoning Administrator, shall be mailed no less than fifteen (15), but nor more than thirty (30), days prior to the public hearing to the following:
 - a. For public hearings, all properties located within two-hundred fifty (250) feet from the property line of the subject property by certified mail, return receipt requested or personal delivery.
 - b. For public meetings on design review for a non-residential property, all residential properties within two-hundred fifty (250) feet from the property line of the subject property by certified mail, return receipt requested or personal delivery.
3. The notice shall include the date, time, place and purpose of such hearing or meeting, the name of the applicant, and the address of the subject property.
4. The applicant shall be responsible for mailing proper notice. The applicant shall provide an affidavit to the Village stating that notice was mailed to the applicable properties within two-hundred fifty (250) feet. The applicant shall also provide the Village with a list of names, addresses and property identification numbers (PIN) of all notice recipients.
5. Giving notice pursuant to this section shall not be construed to prevent the applicant from giving such additional notice as he/she may deem appropriate.
6. Additional notice by mail shall be given to any newspaper or person requesting notice of all hearings or meetings held pursuant to this Code that have previously filed a written request with the Village and paid the annual fee, as established by the Zoning Administrator, to cover postage and handling. Such written request shall automatically expire on December 31st of the year in which it is made unless a written request for renewal accompanied by the annual fee is submitted prior to such date.
7. The body conducting the hearing or meeting shall hear no application unless the applicant complies in all respects to all notice requirements.

C. Posted Sign Notices

1. Posted notice in accordance with this section, shall be required for the following applications:
 - a. Public hearings for zoning map amendment, special use, including planned developments, and variation applications.
 - b. All applications for a public meeting for design review for a non-residential property located within two-hundred fifty (250) feet from a single-family residential zoning district.

2. The required posting period shall be no less than fifteen (15) consecutive days, but no more than thirty (30) days, prior to the public hearing or meeting (excluding the day of the hearing or meeting from this period). The sign shall be posted at a prominent location on the property, near the sidewalk or public right-of-way so that it is visible to passing pedestrians and motorists. The sign shall not be removed only after the conclusion of the public hearing or meeting.
3. For signs posted for a public hearing, the Village shall provide the sign. The applicant shall pay a deposit for the sign and erect the sign on the property. The applicant must maintain the sign during the required period. Upon return of the sign to the Village, the deposit shall be returned.
4. Failure to post for the required time may, at the discretion of the board conducting the hearing, constitute grounds for suspension or continuance of the approval process.

D. Public Examination and Copying of Applications and Other Documents

At any time following the giving of notice, and upon reasonable request, any person may examine the application and, subject to the exceptions set forth in the Illinois Freedom of Information Act, all other documents on file with the Zoning Administrator pertaining to the matter subject to such notice. In addition, any person shall be entitled to copies of such application and documents upon reasonable request and payment of a fee, as established from time to time by the Zoning Administrator, to cover the cost of such copies.

3.5 PUBLIC HEARINGS

A. Setting a Public Hearing

When the provisions of this Code require a public hearing, the body charged with conducting the hearing shall, upon receipt of a complete application, fix a reasonable time and place for such hearing.

B. Right to Submit Written Statements

Any person may at any time prior to the commencement of a public hearing, or during such hearing, or within such time as may be allowed by the hearing body following such hearing, submit written statements in support of or in opposition to the application being heard.

C. Conduct of Hearings

1. Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney, and may submit documentary evidence. However, the hearing body may exclude irrelevant, immaterial or unduly repetitious evidence.
2. Subject to the discretion of the hearing body, the applicant, any board, commission, department or official of the Village, and any property owner entitled to written notice may be allowed, in addition to the rights granted by Paragraph 1, above, any or all of the following rights:
 - a. To present witnesses on their behalf.
 - b. To cross-examine all witnesses testifying in opposition to their position.
 - c. To examine and reproduce any documents produced at the hearing.

- d. To have subpoenas issued by the body in charge of the hearing as may be provided by state law for persons to appear at the hearings and for examination of documents by the person requesting the subpoena either before or during the hearing, where such persons or documents are shown to have a substantial evidentiary connection with either:
 - i. The property to which the request applies.
 - ii. Facts that would support or negate the legal standards for granting the request.
- e. To a continuance, upon request, for the purpose of presenting evidence to rebut evidence introduced by any other person.

In determining whether to grant or withhold such rights, the discretion of the hearing body shall be governed by the goal of securing all information and opinion relevant and material to its deliberations. Such rights shall not be granted when undue and unwarranted delay would result, or when to do so would produce no new evidence to aid the hearing body in reaching its decision.

- 3. All testimony at any hearing held pursuant to the provisions of this Code shall be given under oath.
- 4. All other matters pertaining to the conduct of hearings shall be governed by the provisions of this Code pertaining to, and the rules promulgated by, the body conducting the hearing.

D. Continuation of Public Hearing

The body conducting the hearing may, at any time, change or continue the regular public hearing date and time for the purpose of giving further notice, taking further evidence, gathering further information, deliberating further, or for such other reason as the hearing body may find to be sufficient. In order to reopen the hearing, no new notice shall be required if a hearing is continued to a specific date, provided that a public announcement of the future date, time and place of the continued hearing is made at the hearing, and placed in the minutes. If the hearing is adjourned, rather than continued to a specific date, in order to reopen the hearing, all notices must be given that would have been required for the initial public hearing.

3.6 EXTENSION OF TIME

A. Extensions of Time for Good Cause

Except as provided in Paragraph B, below, an extension of time may be granted, for good cause shown and without any notice or hearing, of any time limit imposed on an applicant by this Code, or of any time limit imposed by any ordinance or resolution of any body acting pursuant to this Code, unless that ordinance or resolution shall expressly provide otherwise. The total period of time granted by such extension or extensions shall not exceed the length of the original period. An extension of time may be granted pursuant to this section by the Zoning Administrator or the Village Board as follows:

- 1. By the Zoning Administrator for a time limit related solely to a single-family detached dwelling.
- 2. By the Village Board for any other time limit.

An application for such an extension of time shall be filed by the applicant not less than thirty

(30) days prior to the expiration of the earliest time limit for which an extension is requested. The application shall state the applicable time limit, the length of the extension being requested, and good cause why the extension should be granted. The proper filing of such an application shall stay the expiration of the time limit for which an extension is being requested until the day of issuance of the final decision on the request by the Zoning Administrator or the Village Board, as applicable.

B. Village Developments

Notwithstanding any other provision of this Code, no time limit imposed on any approval of any type granted for any development owned or leased by the Village shall be applicable to such development. The ordinance or resolution of any body acting pursuant to this Code granting such approval may expressly provide for a time limit on any such approval.