

ARTICLE 4. APPLICATIONS, APPROVALS & ENFORCEMENT

NOTES ON REVISIONS

Timeframes: The current decision deadlines should be consistent throughout the Code. The Zoning Task Force has recommended that this time period should be 60 days. Therefore, most timeframes have been revised as 60 days.

Variations: Because the purpose of a variation is to respond to unique hardships that run with the land, many communities do not place limits upon the types of variations that can be granted. Hinsdale's Code currently limits the types of variations that can be applied for. Certain of these limitations are also questionable. For example, variations related to eminent domain should not be included within the Code, restrictions on the maximum height that a wireless antenna can be increased by variance are not compliant with federal requirements, and the increase in maximum floor area for detached garages in certain residential districts does not function as a variation but as a special exception.

In this draft of the Code, limitations on the types of variations that can be applied for have been eliminated. An applicant should be able to apply for a variation to any of the Code requirements. If this is considered too permissive, it is recommended that the Village include "caps" for certain variations that are of concern, while still allowing for an applicant to apply for any type of variation. It should also be noted that we have brought district regulations in line with the existing character of the Village, therefore the number of variation requests, especially those due to nonconforming lots, should be significantly reduced, resulting in future variation requests directly related to unique properties with real hardships. Because district regulations have been refined to relate to existing character, it will also allow the Village stronger grounds to deny variation requests that are trying to circumvent Code requirements.

Variation Standards: Variation standards have been simplified and are consistent with Illinois zoning law.

Design Review: Design review, exterior appearance review and site plan review cover the same ground. We have streamlined this process and consolidated the site plan review application, the design review application and the exterior appearance review application into one design review process, since all require Plan Commission recommendation and Village Board approval. By consolidating these processes, conflicting approvals and additional revisions are avoided. The specific standards for the Historical Gateway Design Review Overlay District are integrated into that district's standards. Standards for exterior appearance review have been integrated into the review standards.

Design Review: The current Code only includes standards for denial. Design review should have standards that look positively at the different site and design elements therefore we have included standards to guide reviewers in the different elements that need to be considered. These are not required design elements, but rather guidelines for those aspects that need to be considered. We have eliminated the existing standards for denial.

Sign Permit: Approval of a sign permit has been revised so that the Zoning Administrator issues the sign permit. Because the sign permit is really an assessment of compliance with the sign regulations, it is accepted practice to keep this responsibility with the Zoning Administrator. It is important to remember that when new development is proposed, that the Plan Commission will still be able to review sign design as part of the design review permit.

Sign Permit: We have eliminated allowances for the Plan Commission to vary sign standards. This is essentially a variation, which is required to be approved by the BZA. Allowing the Plan Commission to do this is suspect.

Certificate of Zoning Compliance: Since a Certificate of Zoning Compliance is issued to confirm compliance with the Code, the provisions were simplified to require certificate approval before any building permit that effects the exterior of a building, a building permit for an accessory structure or a change in use. This is to ensure those actions, such as interior remodeling, that do not involve zoning are exempted from the certificate as no zoning review is necessary. In addition, it has been clarified that the Certificate of Zoning Compliance is required to be issued just prior to the building permit or certificate of occupancy. It is inappropriate to issue the certificate sooner as various zoning approvals, conditions and modifications may be made to the development application, requiring issuance of a new certificate each time. It is the purpose of development review and approvals to sort out any issues with the development and make proper modifications; the purpose of the certificate is to ensure that final plans, submitted with a building permit, are in compliance with the code and any zoning approvals and their conditions granted.

Interpretations: The expiration of use interpretations has been eliminated. This is intended to create consistency in application, i.e., once a use interpretation has been rendered it should be considered to be the Village's formal interpretation unless the Code is amended.

ARTICLE 4. APPLICATIONS, APPROVALS & ENFORCEMENT

- 4.1 PURPOSE
 - 4.2 AMENDMENTS
 - 4.3 VARIATIONS
 - 4.4 SPECIAL USE PERMITS
 - 4.5 DESIGN REVIEW
 - 4.6 SIGN PERMIT
 - 4.7 CERTIFICATE OF ZONING COMPLIANCE
 - 4.8 INTERPRETATIONS
 - 4.9 APPEALS
 - 4.10 ENFORCEMENT AND PENALTIES
-

4.1 PURPOSE

The purpose of this Article is to describe the applicability, procedures, requirements, and approval criteria for each zoning application and approval.

4.2 AMENDMENTS

A. Purpose

The amendment process established by this section is intended to provide a means for making changes to the text of this Code and the Zoning Map. It is not intended to relieve particular hardships, nor to confer special privileges or rights. Rather, it is intended as a tool to adjust the provisions of this Code and the Zoning Map in light of changing, newly discovered or newly important conditions, situations or knowledge.

B. Initiation

An application for an amendment may be filed by the Village Board, Plan Commission, Zoning Board of Appeals, or owner of, or any person having a contractual interest in, any property in the Village.

C. Authority

This Code and the Zoning Map may be amended from time to time by ordinance duly enacted by the Village Board in accordance with the procedures set out in this section.

D. Procedure

Applications for amendments shall be filed in accordance with the requirements of Section 3.2 (Applications).

1. Preliminary Consideration By Village Board

- a. Every properly filed and complete application for an amendment, before being processed in any other manner, shall be referred to the Village Board for a determination as to whether the application merits a public hearing and consideration by the Plan Commission or should be summarily denied.
- b. Notice of the meeting at which the issue will be considered shall be given to the applicant at least seven (7) days before such meeting. The applicant, or his/her representative, shall have the right to be heard on the issue.

- c. The Village Board, at the first meeting after the meeting at which the issue first appeared on the agenda, shall either summarily deny the application or refer it to the Plan Commission for public hearing. The affirmative vote of four (4) members of the Village Board shall be necessary to summarily deny an application. Any other vote shall be sufficient to refer the application for a public hearing. In the case of such referral, the date of such referral shall be deemed to be the date of filing for computation of all time periods under this Code. A summary denial shall have the same legal effect as a denial after a full public hearing.
- d. In considering the issue of whether to deny or refer an application for a public hearing, the Village Board shall be guided by the legislative standard that applies to granting an application for an amendment as set forth in Paragraph E, below.

2. Action By Plan Commission

- a. When an application for amendment is referred to the Plan Commission, the Plan Commission shall conduct a public hearing on a proposed zoning amendment in accordance with Section 3.5 (Public Hearing). Notice for the public hearing shall be in accordance with Section 3.4 (Notice). If, in the Plan Commission judgment, the application does not contain sufficient information to enable the Commission to properly discharge its responsibilities, the Plan Commission may request additional information from the applicant. In that event, consideration of the application shall be suspended pending receipt of all requested information and/or the public hearing may be continued. The Plan Commission must make findings, based upon the evidence presented at the public hearing, with respect to each of the approval standards in Paragraph E, below.
- b. Within sixty (60) days following the conclusion of the public hearing, the Plan Commission shall transmit its recommendation to the Village Board. The failure of the Plan Commission to act within sixty (60) days following the conclusion of the public hearing, or such further time to which the applicant may agree, shall be deemed a recommendation for the approval of the proposed amendment as submitted.

3. Action by Village Board

Within sixty (60) days following the receipt of the recommendation of the Plan Commission, or its failure to act within sixty (60) days following the conclusion of the public hearing, the Village Board shall approve, approve with conditions, or deny an application for a zoning text amendment, and approve or deny an application for a zoning map amendment. The failure of the Village Board to act within sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying the application. The Village Board shall base its decision on the standards of Paragraph E, below.

4. Written Protest of Map Amendments

Whenever a written protest against the proposed map amendment has been filed within thirty (30) days after the public hearing, the ordinance providing for the proposed map amendment shall not be passed except by the favorable vote of two-thirds ($\frac{2}{3}$) of the members of the Village Board. Such written protest must be signed by one (1) of the following: 1) the owners of twenty percent (20%) of the frontage proposed to be altered; or 2) twenty percent (20%) of the frontage immediately adjoining in the same block or in the block in back of or across an alley therefrom; or 3) by twenty percent (20%) of the frontage owners immediately opposite therefrom.

E. Approval Standards

The Plan Commission recommendation and Village Board decision on any zoning amendment, whether text or map amendment, is a matter of legislative discretion that is not controlled by any particular standard. However, in making their recommendation and decision, the Plan Commission and Village Board shall consider the following standards, as set forth in Table 4-1: Approval Standards for Zoning Amendments below.

| TABLE 4-1: APPROVAL STANDARDS FOR ZONING AMENDMENTS | | |
|--|----------------|-----------------|
| Standards | Map Amendments | Text Amendments |
| The existing use and zoning of nearby property. | X | |
| The extent to which property values of the subject property are diminished by the existing zoning. | X | |
| The extent to which the proposed amendment promotes the public health, safety, comfort, convenience and general welfare of the Village. | X | X |
| The relative gain to the public, as compared to the hardship imposed upon the applicant. | X | X |
| The suitability of the property for the purposes for which it is presently zoned, i.e. the feasibility of developing the property in question for one (1) or more of the uses permitted under the existing zoning classification. | X | |
| The length of time that the property in question has been vacant, as presently zoned, considered in the context of development in the area where the property is located. | X | |
| The evidence, or lack of evidence, of community need for the use proposed by the applicant. | X | |
| The consistency of the proposed amendment with the Comprehensive Plan. | X | X |
| The consistency of the proposed amendment with the intent and general regulations of this Code. | | X |
| Whether the proposed amendment corrects an error or omission, adds clarification to existing requirements, or reflects a change in policy. | | X |
| That the proposed amendment will benefit the residents of the Village as a whole, and not just the applicant, property owner(s), neighbors of any property under consideration, or other special interest groups, and the extent to which the proposed use would be in the public interest and would not serve solely the interest of the applicant. | X | X |
| Whether the proposed amendment provides a more workable way to achieve the intent and purposes of this Code and the Comprehensive Plan. | | X |
| The extent to which the proposed amendment creates nonconformities. | X | X |
| The trend of development, if any, in the general area of the property in question. | X | |
| Whether adequate public facilities are available including, but not limited to, schools, parks, police and fire protection, roads, sanitary sewers, storm sewers, and water lines, or are reasonably capable of being provided prior to the development of the uses, which would be permitted on the subject property if the amendment were adopted. | X | |
| The extent to which the proposed amendment is consistent with the overall structure and organization of this Code. | | X |

4.3 VARIATIONS

A. Purpose

The variation procedure is intended to provide a narrowly circumscribed means by which relief may be granted from unforeseen particular applications of this Code that create practical difficulties or particular hardships. When such difficulties or hardships are more appropriate for remedy, if at all, pursuant to other provisions of this Code, the variation procedure is inappropriate.

B. Initiation

Applications for variations may be filed by the owner of, or a person having a contractual interest in, property within the Village.

C. Authority

The Zoning Board of Appeals shall have the authority to grant variations from the provisions of this Code.

D. Procedure

1. Applications for variations shall be filed in accordance with the requirements of Section 3.2 (Applications).
2. The Zoning Board of Appeals shall conduct a public hearing on a variation application in accordance with Section 3.5 (Public Hearings). Notice for the public hearing shall be in accordance with Section 3.4 (Notice). If, in the Zoning Board of Appeals judgment, the application does not contain sufficient information to enable the Board to properly discharge its responsibilities, the Zoning Board of Appeals may request additional information from the applicant. In that event, consideration of the application shall be suspended pending receipt of all requested information and/or the public hearing may be continued. The Zoning Board of Appeals must make findings, based upon the evidence presented at the public hearing, with respect to each of the approval standards in Paragraph E, below.
3. Within sixty (60) days following the close of the public hearing, the Zoning Board of Appeals shall render its decision. The failure of the Zoning Board of Appeals to act within sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying the variation.

E. Approval Standards

1. No variation from the provisions of this Code shall be granted unless the Zoning Board of Appeals makes specific written findings of fact based directly on the standards and conditions imposed by this section. These standards are as follows:
 - a. The strict application of the terms of this Zoning Code will result in undue hardship.
 - b. The plight of the owner is due to unique circumstances.
 - c. The variation, if granted, will not alter the essential character of the locality.
2. The Zoning Board of Appeals, in making its findings of fact, may inquire into the following evidentiary issues, as well as any others deemed appropriate:
 - a. The particular physical surroundings, shape or topographical conditions of the specific property impose a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
 - b. The alleged difficulty or hardship has not been created by any person presently having a proprietary interest in the property in question nor by any person in privity with the person having a proprietary interest.
 - c. The granting of the variation will not be detrimental to the public welfare in the neighborhood in which the property is located.
 - d. The proposed variation will not impair an adequate supply of light and air to adjacent property, substantially increase congestion in the public streets, increase the danger of fire, endanger the public safety or impair property values within the neighborhood.

- e. The proposed variation is consistent with the spirit and intent of this Code and the adopted Comprehensive Plan and Village development policies.
- f. The value of the property in question will be substantially reduced if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located.

F. Prohibited Variations

Notwithstanding any other provision of this section, no variation shall be granted that:

- 1. Is intended as a temporary measure only.
- 2. Is greater than the minimum variation necessary to relieve the particular hardship or practical difficulty demonstrated by the applicant.

G. Variation Less Than Requested

A variation less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the entirety of the relief requested.

H. Conditions on Variations

The Zoning Board of Appeals may impose such specific conditions and limitations concerning use, construction, character, location, landscaping, screening and other matters relating to the purposes and objectives of this Code upon the premises benefited by a variation as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services. Such conditions shall be expressly set forth in the resolution granting the variation. Violation of any such condition or limitation shall be a violation of this Code and shall constitute grounds for revocation of the variation.

I. Affidavit of Compliance with Conditions

Whenever any variation authorized pursuant to this section is made subject to conditions and limitations to be met by the applicant, the applicant shall, upon meeting such conditions, file an affidavit with the Zoning Administrator so stating.

J. Effect of Grant of Variation

The grant of a variation shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits and approval required by the codes and ordinances of the Village.

K. Expiration of Variations

- 1. Subject to an approved request for an extension of time, no variation from the provisions of this Code shall be valid for a period longer than one (1) year unless a building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion or unless a certificate of occupancy is issued and a use is commenced within one (1) year.

2. A variation shall be deemed to authorize only the particular construction or development for which it was issued and shall automatically expire and cease to be of any force or effect if such construction or development is removed and not replaced within six (6) months following such removal.

4.4 SPECIAL USE PERMITS

A. Purpose

Special uses are those uses having some special impact or uniqueness that requires a careful review of their location, design, configuration and impact to determine the desirability of permitting their establishment on any given site. They are uses that may or may not be appropriate in a particular location depending on a weighing of the public need and benefit against the local impact and effect in each case.

B. Initiation

Applications for special use permits may be filed by the owner of, or a person having a contractual interest in, property within the Village.

C. Authority

The Village Board may grant special use permits, after receiving recommendation from the Plan Commission, authorizing the development of uses listed as special uses in the regulations applicable to the district in which the subject property is located.

D. Procedure

Applications for special use permits shall be filed in accordance with the requirements of Section 3.2 (Applications).

1. Action by Plan Commission

- a. The Plan Commission shall conduct a public hearing on a proposed special use in accordance with Section 3.5 (Public Hearings). Notice for the public hearing shall be in accordance with Section 3.4 (Notice). If, in the Plan Commission judgment, the application does not contain sufficient information to enable the Commission to properly discharge its responsibilities, the Plan Commission may request additional information from the applicant. In that event, consideration of the application shall be suspended pending receipt of all requested information and/or the public hearing may be continued. The Plan Commission must make findings, based upon the evidence presented at the public hearing, with respect to each of the approval standards in Paragraph E, below.
- b. Within sixty (60) days following the conclusion of the public hearing, the Plan Commission shall transmit its recommendation to the Village Board, recommending approval, approval with conditions or denial of the application. The failure of the Plan Commission to act within sixty (60) days, or such further time to which the applicant may agree, shall be deemed a recommendation for the approval of the proposed special use permit.

2. Action by Village Board

Within sixty (60) days following receipt of the recommendation of the Plan Commission, or its failure to act as above provided, the Village Board shall approve, approve with conditions or deny the application. The failure of the Village Board to act within sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying the special use permit. The Village Board shall base its decision on the standards of Paragraph E, below.

E. Approval Standards

1. General Standards

No special use permit shall be recommended for approval or granted unless the applicant establishes the following:

- a. The proposed use and development will be in harmony with the general and specific purposes of this Code, the regulations of the district in question were established, and the general purpose and intent of the Comprehensive Plan and Village development policies.
- b. The proposed use and development will not have a substantial or undue adverse effect upon adjacent property, the character of the area, or the public health, safety and general welfare.
- c. The proposed use and development will be constructed, arranged and operated so as not to dominate the immediate vicinity, or to interfere with the use and development of neighboring property in accordance with the applicable district regulations.
- d. The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries and schools, or the applicant will provide adequately for such services.
- e. The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets.
- f. The proposed use and development will not result in the destruction, loss or damage of any natural, scenic or historic feature of significant importance.
- g. The proposed use and development complies with all additional standards imposed on it by the particular provision of this Code authorizing such use. When the district regulations authorizing any special use in a particular district impose special standards to be met by such use in such district, the special use permit shall not be recommended for approval or granted unless the applicant shall establish compliance with such special standards.

2. Additional Considerations

In determining whether the applicant's evidence establishes that the foregoing standards have been met, the Plan Commission and Village Board shall consider:

- a. Whether and to what extent the proposed use and development at the particular location requested is necessary or desirable to provide a service or a facility that is in the interest of the public convenience or that will contribute to the general welfare of the neighborhood or community.
- b. Whether and to what extent such public goals can be met by the location of the proposed use and development at some other site or in some other area that may be more appropriate than the proposed site.
- c. Whether and to what extent all steps possible have been taken to minimize any adverse effects of the proposed use and development on the immediate vicinity through building design, site design, landscaping and screening.

F. Conditions on Special Use Permits

The Plan Commission may recommend and the Village Board may impose such conditions and limitations as part of the special use permit concerning use, construction, character, location, landscaping, screening and other matters relating to the purposes and objectives of this Code as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services. Such conditions shall be expressly set forth in the ordinance granting the special use. Violation of any such condition or limitation shall be a violation of this Code and shall constitute grounds for revocation of the special use permit.

G. Affidavit of Compliance with Conditions

Whenever any special use permit is granted made subject to conditions or limitations to be met by the applicant, the applicant shall, upon meeting such conditions, file an affidavit with the Zoning Administrator so stating.

H. Effect of Issuance of a Special Use Permit

The grant of a special use permit shall not authorize the establishment or extension of any use, nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any other permits or approvals required by the codes and ordinances of the Village.

I. Expiration of Special Use Permits

1. Subject to an approved request for an extension of time, no special use permit shall be valid for a period longer than one (1) year unless a building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion or a certificate of occupancy is issued and a use commenced within that period.
2. A special use permit shall be deemed to authorize only the particular use for which it was issued, and shall automatically expire and cease to be of any force or effect if the use is, for any reason, discontinued for a period of six (6) consecutive months or more.
3. Except when otherwise provided in the ordinance granting a special use permit, a special use permit shall be deemed to relate to, and be for the benefit of, the use and lot in question rather than the owner or operator of such use or lot.

J. Amendments to Special Use Permits

A special use permit may be amended, varied or altered only pursuant to the procedures and subject to the standards and limitations of this section for its original approval.

4.5 DESIGN REVIEW

A. Purpose

The design review process is intended to promote orderly development and redevelopment in the Village, and to assure that such development or redevelopment occurs in a manner that is harmonious with surrounding properties, is consistent with the Comprehensive Plan, Village development policies, and promotes the general welfare of the Village. This section provides standards by which to determine and control the physical layout and design to achieve the:

1. Compatibility of land uses, buildings and structures.
2. Efficient use of land.
3. Protection, preservation and enhancement of the character and architectural heritage and quality of the Village.
4. Minimization of traffic and safety hazards, and efficient parking layout.
5. Preservation of natural features and minimization of environmental problems.

B. Authority

The Village Board shall grant design review approval after receiving recommendation from the Plan Commission.

C. Design Review Required

Design review by the Village Board in accordance with this section shall be required in connection with the following activities:

1. A special use permit, including planned development approval.
2. Any development or redevelopment of non-residential and mixed-use structures.
3. Any development or redevelopment of multi-family and townhouse structures.
4. Any construction, alteration, remodeling, removal, movement or demolition of any building, structure or other improvement or premises located within the DR Historical Gateway Design Review Overlay District.
5. Any development or redevelopment of residential recreation facilities that exceed one-thousand five-hundred (1,500) square feet. Basketball backboards are exempt.
6. Any development or redevelopment involving any wireless telecommunications antenna.

D. Procedure

Applications for design review shall be filed in accordance with the requirements of Section 3.2 (Applications).

1. Action by the Plan Commission

- a. The Plan Commission shall conduct a public meeting on a design review application. Notice for the public meeting shall be in accordance with Section 3.4 (Notice). If, in the Plan Commission judgment, the application does not contain sufficient information to enable the Commission to properly discharge its responsibilities, the Plan Commission may request additional information from the applicant. In that event, consideration of the application shall be suspended pending receipt of all requested information. The Plan Commission shall review the application against the standards for design review in Paragraph E, below.
- b. Within sixty (60) days following the conclusion of the public meeting, the Plan Commission shall transmit its recommendation to the Village Board, recommending either approval or denial of the design application. In the case of any recommendation for denial, the recommendation shall contain alternate approaches that could be developed to avoid the specified deficiency or shall state the reasons why such deficiency cannot be avoided consistent with the applicant's objectives shall be provided as part of the recommendation. The failure of the Plan Commission to act within sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a recommendation for approval of the plan as submitted.

2. Action by Village Board

Within sixty (60) days following the receipt of the recommendation of the Plan Commission, or its failure to act as above provided, the Village Board, by ordinance duly adopted, shall approve the plan as submitted, or shall make modifications acceptable to the applicant and approve such modified plan, or shall deny the application, either with or without a remand to the Plan Commission for further consideration. The failure of the Village Board to act within sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying the application. The Village Board shall review the application against the standards for design review in Paragraph E, below.

E. Standards for Design Review

1. Site Design

The location, arrangement, size, design and general site compatibility of buildings, lighting and signs, including:

- a. Efficient use of land that responds to the existing off-site utilities and service conditions in order to minimize the demand for additional municipal services, utilities and infrastructure.
- b. Compatibility with, and mitigation of, any potential impact upon, adjacent property.
- c. Site illumination designed and installed to minimize adverse impact on adjacent properties.
- d. Signs in accordance with Article 14 (Signs).

2. Landscaping, Screening and Open Space

Landscaping and the arrangement of open space or natural features on the site should:

- a. Create a desirable and functional environment for motorists, pedestrians, bicyclists and occupants of residential dwellings, business owners and employees. To achieve such an environment, landscaping may take advantage of open space design features such as bike paths, running paths and outdoor relaxation areas.
- b. Preserve unique natural resources, including measures to preserve and protect existing healthy, mature trees.
- c. Protect natural resources and landscaping on adjacent sites.
- d. Design drainage facilities to promote the use and preservation of natural watercourses and patterns of drainage.
- e. Utilize plant materials suitable to withstand the climatic conditions of the Village and microclimate of the site. The use of species native to northeastern Illinois is encouraged.
- f. Use of screening to buffer the impact of the development on adjacent uses and enhance the appearance and image of the Village by screening incompatible uses and certain site elements, and to create a logical transition to adjoining lots and developments.

3. Circulation and Off-Street Parking

Circulation systems and off-street parking shall be designed to:

- a. Provide adequate and safe access to the site for motor vehicles as well as alternate modes of transportation, including pedestrians and bicyclists.
- b. Minimize potentially dangerous traffic movements.
- c. Separate pedestrian and auto circulation and provide for bicycle parking or storage insofar as practical.
- d. Minimize curb cuts by using cross-access easements and shared parking.
- e. Design off-street parking lots or garages to minimize adverse impacts on adjacent properties, particularly through the use of perimeter and interior landscaping, and promote logical and safe parking and internal circulation.
- f. Define pedestrian access from the parking area to the building(s). A clearly defined visible and identifiable network of pedestrian connections should be provided in and between parking lots, street sidewalks, open spaces and buildings.

4. Building Design

a. District Design Standards

New development must comply with any design standards required by the zoning district in which the development is located.

b. Quality of Design and Site Development

New and existing buildings and structures, and appurtenances thereof, which are constructed, reconstructed, materially altered, repaired or moved shall be evaluated under the following quality of design and site development guidelines:

- i. The quality of open space between buildings and in setback spaces between street and facade.
- ii. The quality of building materials and their relationship to those in existing adjacent structures.
- iii. The quality of the building design in general and its relationship to the overall character of neighborhood.

c. Visual Compatibility

New and existing buildings and structures, and appurtenances thereof, which are constructed, reconstructed, materially altered, repaired or moved shall be visually compatible in terms of the following guidelines:

- i. The height of the proposed buildings and structures shall be visually compatible with adjacent buildings.
- ii. The relationship of the width to the height of the front elevation shall be visually compatible with buildings, public ways and places to which it is visually related.
- iii. The relationship of the width to height of windows shall be visually compatible with buildings, public ways and places to which the building is visually related.
- iv. The relationship of solids to voids in the front facade of a building shall be visually compatible with buildings, public ways and places to which it is visually related.
- v. The relationship of a building or structure to the open space between it and adjoining buildings or structures shall be visually compatible with the buildings, public ways and places to which it is visually related.
- vi. The relationship of entrances and other projections to sidewalks shall be visually compatible with the buildings, public ways and places to which it is visually related.
- vii. The relationship of the materials and texture of the facade shall be visually compatible with the predominant materials used in the buildings and structures to which it is visually related.
- viii. The roof shape of a building shall be visually compatible with the buildings to which it is visually related.
- ix. Building facades and additional structures, such as walls, fences, and landscape masses, shall, when it is a characteristic of the area, form cohesive walls of enclosure along a street to ensure visual compatibility with the buildings, public ways and places to which such elements are visually related.

- x. The size and mass of buildings and structures in relation to open spaces, windows, door openings, porches and balconies shall be visually compatible with the buildings, public ways and places to which they are visually related.
- xi. A building shall be visually compatible with the buildings, public ways and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or non-directional character.

d. Special Considerations for Existing Buildings

For existing buildings, the Plan Commission and the Village Board shall consider the availability of materials, technology and craftsmanship to duplicate existing styles, patterns, textures and overall detailing.

F. Alternative Approaches

The Plan Commission or the Village Board shall suggest alternate plan approaches that could be developed to avoid the specified deficiency or shall state the reasons why the deficiency cannot be avoided consistent with the applicant's objectives.

G. Effect of Design Review Approval

- 1. Approval of a plan shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals that may be required by the codes and ordinances of the Village.
- 2. A copy of every approved plan shall be filed with the Zoning Administrator and the development of the site shall be in substantial conformity with such approved and filed plan.

H. Limitations on Design Review Approval

Subject to an approved request for an extension of time, no plan approval shall be valid for a period longer than one (1) year unless a building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion or unless a certificate of occupancy is issued and a use commenced within that period.

I. Adjustments and Alterations to Approved Design Review Plan

1. Minor Adjustments

During the development of the site, the Zoning Administrator may authorize minor adjustments to an approved plan when such adjustments appear necessary in light of technical or engineering considerations first discovered during actual development. Such minor adjustments shall be limited to the following:

- a. Altering the location of any one (1) structure or group of structures by not more than twenty (20) feet or one-fourth ($\frac{1}{4}$) of the distance shown on the approved plan between such structure or structures and any other structure or any vehicular circulation element or any boundary of the plan, whichever is less.

- b. Altering the location of any circulation element by not more than twenty (20) feet or one-fourth ($\frac{1}{4}$) of the distance shown on the approved plan between such circulation element and any structure, whichever is less.
- c. Altering the location of any open space by not more than fifty (50) feet.
- d. Altering any final grade by not more than twenty percent (20%) of the originally approved grade.
- e. Altering the location or type of landscaping elements.
- f. Minor revisions to building elevation details that do not enlarge buildings or expand footprints of the approved plan. A substantial change in building design, building material selection, or percentage of various approved building materials shall be considered a major change.

Such minor adjustments shall be consistent with the intent and purpose of this Code and the plan as approved, shall be the minimum necessary to overcome the particular difficulty, and shall not be approved if they would result in a violation of any standard or requirement of this Code. The Zoning Administrator may decide that any change to an approved plan, including those designated as a minor change, is a major change and subject to the requirements of Paragraph 2, below.

2. Major Adjustments

Any adjustment to an approved plan that is not authorized as a minor adjustment shall be considered to be a major adjustment and shall be granted only upon application to and approval by the Village Board. The Village Board may grant approval for a major adjustment without referral to the Plan Commission upon finding that any changes in the site plan as approved will be in substantial conformity with said plan. If the Village Board determines that a major adjustment is not in substantial conformity with the plan as approved, then the Village Board shall refer the request to the Plan Commission for further consideration and review as provided in Paragraph 3, below.

3. Amendments

After a site is developed in accordance with an approved plan, the approved plan may be amended, varied or altered in the same manner and subject to the same limitations, as the original approval of the design review plan.

4.6 SIGN PERMIT

A. Purpose

The sign regulations and standards set forth in this Code are intended to protect the health, safety and welfare of Village residents by establishing specific conditions and limitations on signs within the Village. The sign permit process is designed to insure that all such regulations and standards have been satisfied.

B. Initiation

An application for a sign permit may be filed by the owner of, or any person having a contractual interest in, property within the Village on which the sign is proposed to be located.

C. Authority

The Zoning Administrator may grant sign permits authorizing the construction and maintenance of signs.

D. Procedure

1. Applications for a sign permit shall be filed in accordance with the requirements of Section 3.2 (Applications).
2. Within sixty (60) days following receipt of a completed application, the Zoning Administrator shall either approve, approve with conditions or deny the sign permit. The failure of the Zoning Administrator to act within sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a decision approving the sign permit.

E. Approval Standards

In addition, no sign permit shall be granted unless the following approval standards are met:

1. The sign meets the requirements of Article 14 (Signs).
2. The proposed sign will be visually compatible with the building on which the sign is proposed to be located and surrounding buildings and structures in terms of height, size, proportion, scale, materials, texture, colors and shapes.
3. The proposed sign will be constructed and maintained with a design and materials of high quality and good relationship with the design and character of the neighborhood.
4. The proposed sign is appropriate to and necessary for the activity to which it pertains.
5. The proposed sign will be appropriate to its location in terms of design, landscaping and orientation on the site, and will not create a hazard to pedestrian or vehicular traffic, detract from the value or enjoyment of neighboring properties, or unduly increase the number of signs in the area.

F. Conditions on Sign Permits

The Zoning Administrator may impose such conditions and limitations concerning the construction and maintenance upon the grant of a sign permit as may be necessary or appropriate to insure satisfaction of the standards set forth in this section and the purposes and objectives of this Code and to minimize any adverse effects upon other property in the vicinity. Such conditions shall be expressly set forth in the approval of the sign permit. Violation of any such condition or limitation shall be a violation of this Code and shall constitute grounds for revocation of the sign permit.

G. Effect of Issuance of a Sign Permit

The approval of a sign permit shall not authorize construction or maintenance of any sign, but shall merely authorize the preparation, filing and processing of applications for any other permits or approvals required by the codes and ordinances of the Village.

4.7 CERTIFICATE OF ZONING COMPLIANCE

A. Purpose

The purpose of a certificate of zoning compliance is to promote compliance with the Zoning Ordinance by establishing a procedure for the Village to certify that the application complies with all standards of this Code, as well as any zoning approvals and conditions imposed, prior to issuance of a building permit or certificate of occupancy.

B. Authority

The Zoning Administrator shall have authority to issue certificates of zoning compliance in accordance with the provisions of this Section.

C. Certificates of Zoning Compliance Required

Unless expressly waived by another provision of this Code, a certificate of zoning compliance is required prior to issuance of a building permit for any exterior alteration of a structure or for an accessory structure, or prior to issuance of a certificate of occupancy for a change in use. A building permit or certificate of occupancy may not be issued until a certificate of zoning compliance is approved.

D. Procedure

1. Applications for a certificate of zoning compliance shall be filed in accordance with the requirements of Section 3.2.
2. Within thirty (30) days following receipt of a certificate of zoning compliance application, the Zoning Administrator shall review the application for compliance with this Code and shall inform the applicant whether the application has been granted or denied.
3. When an application is granted, the Zoning Administrator shall issue a certificate of zoning compliance, which shall state on its face, in bold type, that:

"THIS CERTIFICATE DOES NOT SIGNIFY BUILDING CODE REVIEW OR APPROVAL AND IS NOT AUTHORIZATION TO UNDERTAKE ANY WORK WITHOUT SUCH REVIEW AND APPROVAL WHERE EITHER IS REQUIRED. SEE THE HINSDALE BUILDING CODE FOR DETAILS."

"BEFORE ANY STRUCTURE TO WHICH THIS CERTIFICATE IS APPLICABLE MAY BE OCCUPIED OR USED FOR ANY PURPOSE, A CERTIFICATE OF OCCUPANCY MUST BE OBTAINED. SEE THE HINSDALE ZONING CODE AND THE HINSDALE BUILDING CODE FOR DETAILS."
4. When an application is denied, the Zoning Administrator shall state the specific reasons why and shall cite the specific provisions of this Code or zoning approval upon which the denial is based. If such application is approved, the Zoning Administrator shall issue the requested certificate of zoning compliance in accordance with the terms and conditions of the approval.
5. Each certificate of zoning compliance shall state the specific use of the subject property for which it is issued, shall identify the specific plans, if any, pursuant to which it is issued, and shall set forth any conditions imposed in connection with any approval granted pursuant to this Code.

6. Every certificate of zoning compliance issued shall be kept on file in the office of the Zoning Administrator and shall be a public record open to inspection in accordance with the provisions of the Illinois Freedom of Information Act.

E. Effect of Issuance of Certificate of Zoning Compliance

The issuance of a certificate of zoning compliance shall not authorize the establishment, expansion or extension of any use nor the development, construction, relocation, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any additional permits and approvals required by the codes and ordinances of the Village.

F. Limitations on Certificates of Zoning Compliance

Subject to an approved extension of time, a certificate of zoning compliance shall become null and void in one (1) year for single-family detached structures and eighteen (18) months for multi-family, mixed-use and non-residential structures after the date it was issued unless construction, reconstruction, remodeling, alteration or moving of a structure is commenced or unless a use is commenced within such period.

G. Void Certificates of Zoning Compliance

Any certificate of zoning compliance issued in violation of the provisions of this Code, whether intentionally, negligently or innocently, shall be void ab initio and shall give rise to no rights whatsoever.

4.8 INTERPRETATIONS

A. Purpose

The interpretation authority established by this section is intended to recognize that the provisions of this Code, though detailed and lengthy, cannot possibly address every specific situation to which they may have to be applied. Many such situations, however, can be readily addressed by an interpretation of the specific provisions of this Code in light of the general and specific purposes for which those provisions have been enacted. Because the interpretation authority herein established is an administrative rather than a legislative authority, it is not intended to add to or change the essential content of this Code but rather is intended only to allow authoritative application of that content to specific cases.

B. Initiation

Applications for interpretations may be filed by any person having an interest in the circumstances giving rise to the need for an interpretation. Interpretations shall not be sought by any person based solely on hypothetical facts or where the interpretation would have no effect other than as an advisory opinion.

C. Authority

The Zoning Administrator may render interpretations, including use interpretations, of the provisions of this Code and of any rule or regulation issued pursuant to it.

D. Procedure

1. Applications for an interpretation shall be filed in accordance with the requirements of Section 3.2 (Applications).

2. Within thirty (30) days following the receipt of an application, the Zoning Administrator shall inform the applicant in writing of his/her interpretation, stating the specific precedent, reasons and analysis upon which the determination is based. Decisions for use interpretations must consider the standards of Paragraph E, below.
3. Appeals of interpretation decisions rendered by the Zoning Administrator may be taken to the Zoning Board of Appeals.
4. Any interpretation of this Code rendered by the Zoning Board of Appeals or the Zoning Administrator shall be kept on file with the Zoning Administrator and shall be a public record of the Village open to inspection by interested parties at reasonable times and upon reasonable notice.

E. Standards for Use Interpretations

The following standards shall govern the Zoning Administrator, and the Zoning Board of Appeals on appeals of the Zoning Administrator's decision, in issuing use interpretations:

1. Any use defined in Article 16 (Definitions) of this Code shall be interpreted as that definition.
2. If a use is listed within another district as a permitted or special use, no use interpretation shall permit that use in a district where it is not listed.
3. No use interpretation shall permit any use in any district unless evidence is presented that demonstrates that it complies with the use limitations established for that particular district.
4. No use interpretation shall permit any use in a particular district unless such use is substantially similar to other uses permitted in such district and is more similar to such other uses, than to those uses permitted or specially permitted in a more restrictive district.
5. If the proposed use is most similar to a use permitted only as a special use in the district in which it is proposed to be located, then any use interpretation permitting such use shall be conditioned on the issuance of a special use permit for such use.
6. No use interpretation shall permit the establishment of any use that would be inconsistent with the purpose statement of the district in question.

F. Effect of Favorable Use Interpretation

No use interpretation finding a particular use to be permitted or specially permitted in a particular district shall authorize the establishment of such use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits and approvals required by the codes and ordinances of the Village.

G. Limitations on Favorable Use Interpretations

A use interpretation finding a particular use to be permitted or specially permitted in a particular district shall be deemed to authorize only the particular use for which it was issued, and such permit shall not be deemed to authorize any allegedly similar use for which a separate use interpretation has not been issued.

4.9 APPEALS

A. Purpose

The appeal procedure is provided as a safeguard against arbitrary, ill-considered or erroneous administrative decisions. It is intended to avoid the need for legal action by establishing local procedures to review and correct administrative errors. It is not, however, intended as a means to subvert the clear purposes, meanings or intents of this Code or the rightful authority of the Zoning Administrator to enforce the requirements of this Code. To these ends, the reviewing body should give all proper deference to the spirit and intent embodied in the language of this Code and to the reasonable interpretations of that language by those charged with the administration of this Code.

B. Initiation

An application for appeal to the Zoning Board of Appeals may be filed by any person aggrieved or adversely affected by an order, decision, determination or failure to act of the Zoning Administrator acting pursuant to his/her authority and duties under this Code.

C. Authority

The Zoning Board of Appeals shall hear and decide appeals from, and review orders, decisions, determinations or the failure to act, of the Zoning Administrator acting pursuant to his/her authority and duties under this Code. To that end, the Zoning Board of Appeals shall have the same powers and be subject to the same standards and limitations as the Zoning Administrator with respect to any order, decision or determination being appealed.

D. Deadline for Appeal

An application for appeal to the Zoning Board of Appeals shall be filed no later than forty-five (45) days following the action being appealed.

E. Procedure

1. Applications for an interpretation shall be filed in accordance with the requirements of Section 3.2 (Applications).
2. Upon receipt of a properly completed application for an appeal, the Zoning Administrator shall transmit the application to the Zoning Board of Appeals, together with all documents constituting the record upon which the action appealed from was taken.
3. The Zoning Board of Appeals shall conduct a public hearing on an appeals application in accordance with Section 3.5 (Public Hearings). Notice for the public hearing shall be in accordance with Section 3.4 (Notice). If, in the Zoning Board of Appeals judgment, the application does not contain sufficient information to enable the Board to properly discharge its responsibilities, the Zoning Board of Appeals may request additional information from the applicant. In that event, consideration of the application shall be suspended pending receipt of all requested information and/or the public hearing may be continued.

4. Within sixty (60) days following the close of the public hearing, the Zoning Board of Appeals shall render a decision on the appeal. Such decision may reverse, affirm or modify, in whole or in part, the action appealed from and may include such order or determination as is necessary, in the opinion of the Zoning Board of Appeals. The failure of the Zoning Board of Appeals to act within the sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying the appeal.

F. Stay of Proceedings

An application for appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Zoning Board of Appeals, after the application for appeal has been filed with the Zoning Administrator that, by reason of facts stated in the certificate, a stay would, in the Zoning Administrator's opinion, cause imminent peril to life or property. In such a case, the proceedings shall not be stayed other than by a restraining order, which may be granted by the Board of Appeals or by the Circuit Court on application, upon reasonable written notice to the Zoning Administrator and on due cause shown.

G. Right to Grant Variation in Deciding Appeals

In any case where the application for appeal is accompanied by an application for variation, the Zoning Board of Appeals shall have the authority to grant, as part of the relief, a variation, but only in strict compliance with the provisions of this Code.

H. Conditions and Limitations on Rights Granted by Appeal

In any case where this Code imposes conditions and limitations upon any right, any such right granted by the Zoning Board of Appeals on appeal shall be subject to such conditions and limitations in the same manner and to the same extent as if secured without the necessity of an appeal.

4.10 ENFORCEMENT AND PENALTIES

A. Enforcement Authority and Duty

Upon finding the existence of any violation of this Code, the Zoning Administrator shall have the authority and duty to take or direct all actions necessary or appropriate to abate and redress such violation.

B. Civil and Administrative Enforcement

1. Stop and Cease-And-Desist Orders

Upon finding the existence of any violation of this Code, the Zoning Administrator shall notify, in writing, the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Specifically, the Zoning Administrator shall order the discontinuance of any illegal use of land or structures, the removal of illegal structures, additions or alterations, and the discontinuance of illegal work being done.

2. Legal Actions

In the enforcement of this Code, the Zoning Administrator shall exercise all the powers authorized by the statutes of the State of Illinois and Village codes and ordinances to ensure compliance with, or to prevent or abate any violation of, the provisions of this

Code, and, in particular, shall, where necessary or appropriate, institute, or cause to be instituted, by the Village Attorney in the name of the Village of Hinsdale any and all actions, legal or equitable, including appeals, that may be required for the enforcement of this Code.

3. Abatement and Liens

Where authorized by state statute, the Zoning Administrator may order any work necessary to abate any violation of this Code and shall assess the cost of such work to the property owner. Upon the failure of the owner to pay such cost, the Zoning Administrator shall file a lien for such costs and for all costs of collection against the property in question.

4. Revocation of Rezonings, Permits, Variations or Approvals

The violation of any provision of this Code, or of any permit or approval granted pursuant to this Code, or of any condition imposed pursuant to this Code shall be grounds for the revocation of any rezoning, permit, variation or approval granted pursuant to this Code and affecting the property involved in the violation. The Zoning Administrator may recommend, and the Village Board may order, such revocation. Where the original rezoning, permit, variation or approval was granted following a public hearing required pursuant to this Code, the revocation shall be preceded by a similar public hearing.

5. Fines and Penalties

In the enforcement of this Code, the Zoning Administrator shall, where necessary and appropriate, order the issuance and enforcement of citations to recover fines and penalties for the violation of this Code as authorized by state law and this Code. Any person who shall violate, disobey, omit, neglect or refuse to comply with, or who shall resist enforcement of, any provision of this Code shall be subject to fines and penalties as stated in the Village Code.

C. Private Remedies Preserved

Nothing in this section shall be interpreted to prevent any person entitled to relief in law or equity by reason of a violation of the provisions of this Code from bringing an appropriate action to secure such relief.