

ARTICLE 3. APPLICATION PROCEDURES

CURRENT
CODE

REORGANIZED CODE PROVISIONS

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.

This is a new introductory paragraph for the Article.

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3.2 APPLICATIONS

A. Filing

1. All applications filed pursuant to this Code shall be filed with the ~~Village Manager~~ Zoning Administrator or his/her designee ~~with such other official or body as the Village Manager may by administrative order designate.~~
2. All applications filed pursuant to this Code shall be on forms supplied by the Village and shall be filed in such number of duplicate copies as the ~~Village Manager~~ Zoning Administrator may ~~designate~~ 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 fourteen (14) inches.
3. In addition to the department or commission that shall receive the initial application, the Zoning Administrator shall determine if input from other departments or commissions is necessary and shall refer such application to such departments or commissions.

B. Deadlines

1. An application requiring a public hearing will be scheduled for a public hearing if it is filed no later than thirty (30) days ~~5:00 p.m. on the fourth Friday~~ preceding the requested hearing date, in proper form and number, and containing all required information. ~~An application requiring a public hearing will not be scheduled for such hearing unless filed, in proper form and number, and containing all required information, no later than 5:00 p.m. on the fourth Friday preceding the requested hearing date.~~ An application so filed will be scheduled for hearing on the requested hearing date, or on the first available date thereafter ~~open on the relevant hearing agenda,~~ 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 ~~twenty-eight (28) 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 ~~Village Manager~~ Zoning Administrator and of the body hearing the application, be cause to delay a requested or scheduled hearing date.
4. 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 fifteen (15) 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.

C. Minimum Requirements

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

D. Special Data Requests

In addition to the required data and information ~~required pursuant to Subsection E of this Section~~, every applicant shall submit ~~such other and~~ additional data, information or documentation as the ~~Village Manager~~ 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

~~Notwithstanding any other provision of this section~~, The ~~Village Manager~~ Zoning Administrator shall have the authority to waive any requirement set forth in ~~Subsections A, B, C, or E of 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, with the exception that the Zoning Administrator may not waive required fees unless a hardship is determined as described in Section 3.3.F below. However, any board or commission before which such application may come shall continue to have the right to request additional information pursuant to Paragraph D, above, of this Section and to delay processing of such application until such information is provided and available in accordance with the deadlines established in Paragraph B, above, of this Section. The ~~Village Manager~~ Zoning Administrator shall provide, in writing, his/her reasons why any such requirement has been waived, and shall refer such writing to the appropriate boards and commissions.

F. Concurrent Applications

When a proposed use or development requires more than one (1) approval

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

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 ~~pursuant to Subsection 11-301D of this Code.~~ 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 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 ~~Village Manager~~ Zoning Administrator without hearing on a finding that no grounds appear that warrant a new hearing. 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.
3. Two (2) years after the final denial of a prior application an application may be resubmitted, whether or not new grounds are stated, ~~any such second application filed more than~~ 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.

Item 3.2.A.2: Would 8.5" x11" be a more common size to fold applications to (for example, 11"x17" folded in half)?

Item 3.2.B: Are the timeframes within this section accurate? The review of the Code offers an opportunity to

revisit these timeframes and codify current practice or provide more time for application processing. Does establishing a date and time (fourth Friday before 5pm) complicate processing? The deadlines were revised to 30 days.

Item 3.2.B.4: A completeness statement was added to protect the Village from timeline/deadline conflicts. This prevents an applicant from being able to take advantage of timelines without having a complete application:

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3.3 FEES**A. Application Fee**

Every application filed pursuant to this Code shall be accompanied by a non-refundable application and filing fee as set by the Village Board ~~of twenty-five dollars (\$25.00), as fixed from time to time by administrative order of the Village Manager,~~ plus the cost incurred by the Village in processing such application as described in Paragraph B, below, of this section. 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. 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 Subsection 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 be deemed to consist at least of 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 ~~Village Manager~~ 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-hundred dollar (\$500.00) 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. Application Completeness

1. No application filed pursuant to this Code shall be considered complete until all fees ~~due pursuant to this Subsection~~ 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 ~~as required by this Subsection~~.
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 ~~Subsection 11-304D~~ 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 ~~Village Manager~~ Zoning Administrator may reduce or waive any fee required ~~in this section pursuant to this Subsection 11-304D~~, but only after a showing by the applicant, in writing, of a particular hardship caused by the application of such fee.

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

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3.4 NOTICE

- A. The ~~Village Manager~~ Zoning Administrator shall give notice of public hearings and public meetings ~~set pursuant to Subsection A of this Section~~ in the form and manner and to the persons herein specified.
- B. **Content**

All notices shall include the date, time and place of such hearing or meeting, a description of the matter to be heard or considered, a legal description of the subject property, and the address or particular location of the subject property.

C. Persons Entitled to Notice

1. All Public Hearings and Public Meetings

Notice of every hearing or meeting set pursuant to Paragraph A, above, shall be given:

- a. By mail or personal delivery to the applicant and, if a specific parcel is the subject of the application, to the owner of the subject property.
- b. By mail to any newspaper or person requesting notice of all hearings or meetings held pursuant to this Code that shall have filed a written request with the Village and paid the accompanied by an annual fee, as established by the Village Manager Zoning Administrator, to cover postage and handling, ~~for notice of all hearings or meetings held pursuant to this Code~~. 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.
- c. By mail, personal delivery or inter-departmental delivery to affected Village boards, commissions, departments, officials and consultants.

Notice by mail as herein required shall be mailed no fewer than seven (7) days in advance of the hearing or meeting date by regular United States mail.

2. Public Hearings on Amendments, Special Use Permits and Variations

In addition to notice as required by Paragraph 1, above, of this section Subparagraph B3(a) of this Section, notice of every public hearing set ~~pursuant to Subsection A of this Section in connection with any application~~ for an amendment to this Code or Zoning Map, a special use permit or a variation shall be given:

- a. By publication in a newspaper published in the Village at least once no less than fifteen (15) days nor more than thirty (30) days in advance of the public hearing date.
- b. If a specific parcel is the subject of the application, by certified mail, return receipt requested, or personal delivery to all owners of property within two-hundred fifty (250) feet of the subject property. Notice ~~as required by this Subparagraph~~ shall be given by the applicant not less than fifteen (15) days nor more than thirty (30) days in advance of the hearing.
- c. If a specific parcel is the subject of application, by posting a sign on the subject property:

- i. The sign shall be at least six (6) square feet in area.
- ii. On the sign face, the words "Zoning Application Pending" and a telephone number to be called for additional information shall be printed.
- iii. The sign shall be issued by the ~~Village Manager~~ Zoning Administrator to the applicant for posting by the applicant.
- iv. The sign shall be posted on the property facing the street at least fifteen (15) days prior to the date set for a hearing on the application.
- v. The sign shall be removed from the property and returned to the ~~Village Manager~~ Zoning Administrator by the applicant following, but not before, the conclusion of the hearing.

~~3. Public Hearing on Official Comprehensive Plan~~

~~In addition to notice as required by Paragraph 1, above, of this section, notice of every public hearing set pursuant to Subsection A of this Section in connection with the adoption or amendment of the Official Comprehensive Plan shall be given by publication in a newspaper of general circulation in DuPage and Cook Counties at least fifteen (15) days before such hearing.~~

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.

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3.5 PUBLIC HEARINGS AND MEETINGS

A. Setting a Public Hearing or Meeting

1. The ~~Village Manager~~ Zoning Administrator, ~~not later than the time set pursuant to Subsection B of this Section for giving public notice,~~ shall refer every application for which this Code requires a public hearing before either the Plan Commission, the Zoning Board of Appeals, or the Historic Preservation Commission to all appropriate Village ~~commissions~~ and departments.
2. When the provisions of this Code require a public hearing or public meeting in connection with an application filed pursuant to this Code, the body charged with conducting the hearing or meeting shall, upon receipt of a properly completed application, fix a reasonable time and place for such hearing or meeting; provided, however, that such hearing or meeting shall be commenced no later than sixty (60) days, and shall be concluded no later than one-hundred (120) days, following the submission of the subject application unless the applicant shall agree to an extension or unless the hearing or meeting agenda of the body is completely committed during that time.

B. Review and Comments

Each Village commission and department to which an application is referred pursuant to this Subsection shall review such application and submit its comments to the staff secretary of the hearing body for presentation at the hearing to be held on such application. Such comments shall, whenever possible, be submitted at least two (2) business days prior to the date set for the hearing and shall be made available upon request to any person prior to the hearing.

C. Examination of 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 ~~Village Manager~~ 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 ~~Village Manager~~ Zoning Administrator, to cover the cost of such copies.

D. Right to Submit Written Statements

Any person may at any time prior to the commencement of a hearing hereunder, 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.

E. 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 pursuant to ~~Subparagraph B3(b)(ii)~~ of 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.

F. 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. The body conducting the hearing may at any time, on its own motion or at the request of any person, adjourn the hearing for a reasonable time and to a fixed date, time, and place, 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. The Staff Secretary of the hearing body shall notify in writing all members of the hearing body, all parties to the hearing, and any other person designated on the vote of adjournment of the date, time, and place of the adjourned hearing.

Item 3.5.B: It is our understanding that Section 3.5.B (Review and Comments) is not typically part of the process. If so, this requirement should be stricken. However, we understand that staff does review applications and provides comment. This section can be revised to reflect that.

Item 3.5.F: This has been rewritten to reflect Illinois statute to allow the body conducting the hearing to reopen the public hearing so long as the date of continuance is announced (i.e., the Village would not have to re-notice).

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3.6 EXTENSION OF TIME**A. Extensions of Time for Good Cause**

Except as provided in Paragraphs B and C, 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 ~~or permittee~~ 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 ~~Village Manager~~ Zoning Administrator or the Village Board as follows:

1. By the ~~Village Manager~~ 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 ~~Village Manager~~ 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.

These provisions have been moved from the Village Manager requirements.

Eminent domain requirements have been moved out of the Code because it is not a zoning matter.