

CHAPTER 30
PLANNING AND ZONING COMMISSION ARTICLES of
RULES and PROCEDURES

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30.01 GENERAL PROVISIONS

These rules are supplementary to the provisions of the Lake in the Hills Zoning Code and as they relate to procedures of the Planning and Zoning Commission. For purposes of this Chapter 30, "Commission" shall mean the Planning and Zoning Commission and "Commissioners" shall mean the members of the Commission.

30.02 MEETINGS/HEARINGS

The Commission shall meet as necessary and at least once monthly. All meetings shall comply with the Open Meetings Act. A quorum shall consist of four Commissioners; no meeting or hearing shall take place without a quorum.

30.03 PROCEDURES AND ORDER OF BUSINESS

A. GENERAL PROCEDURES:

1. The petition for a hearing before the Commission will be prepared and presented in the manner reflected in the Lake in the Hills Zoning Code. Petitions for variations must speak to that part of the Lake in the Hills Zoning Code to be varied and the specific amount of variance requested.
2. At the time of the hearing, the petitioner may appear in his or her own behalf or be represented by counsel or agent.
3. All petitions shall be brought in the name of the record title owner, or the owner or owners of the beneficial interest, through their attorneys or authorized agents. If a

contract purchaser or tenant is involved, either with or without a contingent right, the contract purchaser or tenant shall be revealed and become a second party to the petition, but such contract purchaser or tenant may not file a petition without the owner.

4. There shall be delivered to the Community Development Department a proper petition and other requirements requesting such hearing and setting forth the facts and details as prescribed by ordinance. The Department shall distribute a set to each Commissioner, the President, Trustee Liaison, Village Administrator and any other Village officials as needed. The Department shall be responsible so that each Commissioner receives a complete set of documentation not less than 3 days prior to the hearing.
5. A plat of survey, prepared and signed by an Illinois registered land surveyor, must be attached to the petition when filed and must coincide with the legal description on the petition and legal notices. The plat of survey shall serve as the official and only description of the parcel in question.
6. A petitioner or objector, or his or her agent or attorney, may submit a list of the persons favoring or opposing the petition. Such list will be accepted as an exhibit if it contains nothing more than a brief statement of the position of the persons favoring or opposing the petition, together with the signatures of the persons subscribing to such a statement. Such a list must be presented during the testimony of the person collecting the signatures and will be subject to cross examination.
7. The petitioner or their representative may make a statement outlining the nature of his or her request prior to introducing evidence.

8. In the event objectors to any petition are represented by counsel at the hearing, it shall be the obligation of such counsel to notify the petitioner, his or her attorney or agent that he or she has been so retained and will be present to object. Such notice shall be delivered to the petitioner, his or her attorney or agent not later than four days prior to the scheduled hearing date. Failure of objectors' counsel to give such notice shall give petitioner, his or her attorney or agent the option to postpone the hearing until another day.
9. Continuances may be granted on good cause shown at the discretion of the Chairperson. Continuances for the convenience of the petitioner will be considered provided the petitioner will bear the expense incurred for the incomplete hearing. Hearing cost shall be determined by the Village Board.
10. When the Commission recommends to the Village Board that the prayer of the petitioner be granted or denied, it shall be the obligation of the Community Development Department to prepare a suitable ordinance incorporating the exact findings and recommendation of the Commission for submission to the Village Board.
11. The report of the Commission shall contain a short summary of the petition, location of the property and the reasons for its recommendation. The report shall also include Findings of Fact, indicate the making of the motion, the seconding thereof, and all votes for or against the motion. Commissioners not voting or absent shall also be recorded.
12. A petition for an amendment, conditional use or variation, or a combination thereof, which is denied by the Commission and the Village Board, shall not be brought before the Commission again until one year has passed from the date of the first public

hearing, unless the prayer of the petition requests a different amendment, conditional use or variation, or some change in circumstances has affected the status of the property in a substantial manner. Petitioner, their attorney or agent may present to the Commission and Village Board such reason, or reasons, as they feel sufficient to justify a hearing on the plot or parcel within the one year period. It shall be at the discretion of the Village Board to allow or disallow a subsequent hearing.

13. A Commissioner who has, or feels they have, an interest, whether direct or indirect, in the property or affairs of the petitioner appearing in a case before the Commission, shall be excused from participating in any public hearing relative to such petitioner and in any deliberation on the decision to be rendered on said petition.
14. The public hearings of the Commission are informal in nature and broad discretion in compliance with the rules of evidence shall be applied. Every person at a public hearing shall abide by the order and discretion of the Chairperson. Discourtesy, disorderly or contemptuous conduct shall be regarded as a breach of privilege and shall be dealt with as the Commission deems proper.

B. HEARING PROCESS BEFORE COMMISSION:

1. **EVIDENTIARY STANDARDS:** The Commission shall not be bound by the strict rules of evidence as applied in Illinois courts pertaining to civil actions. The Commission shall receive evidence which is material, relevant and would be relied upon by reasonably prudent persons in the conduct of serious affairs. When the admissibility of evidence depends upon an arguable interpretation of substantive law, the Chairperson shall admit such evidence.

2. PUBLIC HEARING PARAMETERS: All parameters for public hearings, including but not limited to notice requirements, shall comply with this Code unless altered by the provisions listed in this Section 30.03-B:
 - a. Within a reasonable time from the date that the complete petition is filed, the date, time and location of the hearing on the petition shall be determined by the Village in consultation with the Commission, but the hearing shall begin no later than 90 days following said filing.
 - b. The Village shall reserve the right to engage the services of one or more court reporters to provide transcripts of all sessions of the hearing, which transcripts shall be deemed to constitute the minutes of the hearing. Any and all costs associated with such engagements, including the necessary copying of transcripts required for internal use by the Village and the Commission, shall be at the petitioner's expense.
 - c. If, in the Village's opinion, Village facilities are not sufficient to accommodate the number of persons expected to attend the hearing, the Village may arrange for the hearing to be conducted at another site. In such a circumstance, the Village is authorized to rent appropriate facilities and equipment, including but not limited to an adequately-sized meeting space such as an auditorium, as well as a sound system, chairs, tables and associated services such as custodians and set-up personnel as may be necessary to conduct a proper hearing. Any and all costs associated with such arrangements shall be at the petitioner's expense.

- d. The Village Attorney or his designee shall serve as legal advisor to the Commission and the Community Development Director shall serve as staff advisor to the Commission.
- e. All testimony at the hearing shall be under oath or affirmation. Any person appearing at the hearing shall have the right to give testimony and comment on the petition. Any person testifying shall be required to state their name and address and who they are representing.
- f. The opportunity for any person appearing at the hearing to cross examine any witness may be limited by the Commission. The Commission reserves the right to limit testimony, questions, comments and cross-examination to prevent argumentative comments; prohibit personal attacks on other parties; maintain order and decorum during the hearing process; and prevent irrelevant, incompetent and unnecessarily cumulative or repetitive materials in the record. The Commissioners reserve the right at all times to ask questions of or reply to any party testifying in order to clarify an issue, statement or fact. Depending upon the complexity of the matter before the Commission, public notice of the hearing may require that any person participating in the hearing, who wishes to submit testimony and other evidence, or to examine the petitioner's testimony and other evidence, must notify the Commission, in writing, not more than seven days before the public hearing.
- g. Any person shall have the right to be represented by a licensed attorney-at-law at the hearing. Such attorneys shall have the right of reasonable

cross-examination. The scope of cross-examination shall be determined by the Commission.

- h. The Village, at its sole discretion, shall have the right to determine whether the information provided can be evaluated by qualified professionals on its staff. If the Village cannot accomplish this evaluation because such qualified personnel are not available and the employment of such persons would impose a financial burden upon the Village, the Village shall have the authority to retain the services of one or more professional consultants to assist the Village staff and the Commission in the process of reviewing any aspect of the petition. Any and all expenses of such services shall be at the petitioner's expense. Such consultants shall have the same standing to testify and to be cross-examined as may be necessary as any other witnesses at the hearing.
- i. After the Commission has passed a motion to close all testimony and close the public comment portion of the hearing, and a transcript has been made of the proceedings up to that point, the Commissioners will then begin their deliberations in order to prepare a recommendation. Before beginning their deliberations, the Commissioners shall be required to sign an affidavit attesting that they have received and read all the transcripts of the proceedings as a substitute for any sessions at which any Commissioner may not have attended. The deliberative and recommendation phase of the proceedings by the Commission shall require the normal quorum of four members to be in attendance.

- j. Members of the public shall be allowed to obtain copies of any documents filed with the Village upon application and payment to the Village of the actual cost of reproduction in accordance with the Freedom of Information Act.
 - k. The Village, in consultation with the Commission, shall have the authority to establish reasonable rules and procedures for the conduct of hearings and the order of business to be followed during hearings.
3. ORDER OF BUSINESS: The order of presentation of testimony and evidence at a public hearing shall generally be as follows, but may be modified as determined appropriate by the Commission:
- a. Identification of petitioner.
 - b. Submittal of proof of notice.
 - c. Testimony and other evidence by petitioner.
 - d. Commission examination of petitioner's witnesses and other evidence.
 - e. Examination of petitioner's witnesses and other evidence by any person appearing at the hearing. Examination by persons appearing at the hearing shall be limited to the scope of the testimony presented on direct questioning by the petitioner and the Commission.
 - f. Re-examination by the petitioner.
4. DECISION: At the conclusion of the evidentiary portion of the public hearing, the Commission may, among other actions, move to deliberate its decision on the evidence presented, or continue the hearing to a date, time and location certain. A

written decision shall be prepared which shall include findings of fact and the Commission's recommendation or decision based upon the record and pursuant to this Section 30.03-B. The written decision of the Village Board may adopt the Commission's findings. However, if the decision of the Village Board is based upon facts different from the Commission, such findings of fact must be made a part of the record.

5. ADDITIONAL EVIDENCE OR TESTIMONY: Evidence or testimony may only be presented at the public hearing. If the Village requires additional evidence, or if any person desires to present additional evidence after the close of the public hearing, the public hearing shall be re-opened and conducted in accordance with this Section 3.03-B.

C. HEARING OFFICER ALTERNATIVE PROCESS: Pursuant to 65 ILCS 5/11-13-14.1, in the event the Village determines that a zoning petition filed with the Village to be heard by the Commission is likely to require a hearing of such duration or complexity so as to cause difficulties or hardships upon the Commissioners to attend and adequately manage all of the sessions of the hearing, then the Village may, at its sole discretion by ordinance, establish the position of hearing officer and delegate to said officer the authority to conduct said hearing. The hearing officer alternative process shall be established and conducted in the following manner:

1. APPOINTMENT, QUALIFICATIONS AND DUTIES OF HEARING OFFICER: The Village shall appoint a hearing officer to govern the proceedings under this Code. The hearing officer shall be an attorney licensed to practice in this State. The hearing officer, who will preside over the hearing, shall have the duty to conduct a fair hearing, to maintain order and to ensure development of a clear, complete and concise record of the proceedings. If requested by the Commission, the hearing officer shall prepare recommended findings of fact and law for consideration by the Commission.

2. EVIDENTIARY STANDARDS: The hearing officer shall not be bound by the strict rules of evidence as applied in the courts of Illinois pertaining to civil actions. The hearing office shall receive evidence which is material, relevant and would be relied upon by reasonably prudent persons in the conduct of serious affairs. When the admissibility of evidence depends upon an arguable interpretation of substantive law, the hearing officer shall admit such evidence.

3. PUBLIC HEARING PARAMETERS: All parameters for public hearings, including but not limited to notice requirements, shall comply with this Code unless altered by the provisions listed in this Section 30.03:
 - a. Within a reasonable time from the date that the complete petition is filed, the date, time and location of the hearing on the petition shall be determined by the Village in consultation with the Commission, but the hearing shall begin no later than 90 days following said filing.

 - b. The Village shall reserve the right to engage the services of one or more court reporters to provide transcripts of all sessions of the hearing, which transcripts shall be deemed to constitute the minutes of the hearing. Any and all costs associated with such engagements, including the necessary copying of transcripts required for internal use by the Village, the Commission and the hearing officer, shall be at the petitioner's expense.

 - c. If, in the Village's opinion, Village facilities are not sufficient to accommodate the number of persons expected to attend the hearing, the Village may arrange for the hearing to

be conducted at another site. In such a circumstance, the Village is authorized to rent appropriate facilities and equipment, including but not limited to an adequately-sized meeting space such as an auditorium, as well as a sound system, chairs, tables and associated services such as custodians and set-up personnel as may be necessary to conduct a proper hearing. Any and all costs associated with such arrangements shall be at the petitioner's expense.

- d. Any and all costs associated with the compensation and expenses of the hearing officer shall be at the petitioner's expense.
- e. The Village Attorney or his designee shall serve as legal advisor to the hearing officer and Commission and the Community Development Director or his designee shall serve as staff advisor to the hearing officer and Commission.
- f. All testimony at the hearing shall be under oath or affirmation. Any person appearing at the hearing shall have the right to give testimony and comment on the petition. Any person testifying shall be required to state their name and address and who they are representing.
- g. The opportunity for any person appearing at the hearing to cross-examine any witness may be limited by the hearing officer. The hearing officer reserves the right to limit testimony, questions, comments and cross-examination to prevent argumentative comments; prohibit personal attacks on other parties; maintain order and decorum during the hearing process; and prevent irrelevant, incompetent and unnecessarily cumulative or repetitive

materials in the record. Depending upon the complexity of the matter before the Commission, public notice of the hearing may require that any person participating in the hearing, who wishes to submit testimony and other evidence, or to examine the petitioner's testimony and other evidence, must notify the Commission, in writing, not more than seven days before the public hearing. The Commissioners reserve the right at all times to ask questions of or reply to any party testifying in order to clarify an issue, statement or fact.

- h. Any person shall have the right to be represented by a licensed attorney-at-law at the hearing. Such attorneys shall have the right of reasonable cross-examination. The scope of cross-examination shall be determined by the hearing officer.
- i. The Village, at its sole discretion, shall have the right to determine whether the information provided can be evaluated by qualified professionals on its staff. If the Village cannot accomplish this evaluation because such qualified personnel are not available and the employment of such persons would impose a financial burden upon the Village, the Village shall have the authority to retain the services of one or more professional consultants to assist the Village staff and Commission in the process of reviewing any aspect of the petition. Any and all expenses of such services shall be at the petitioner's expense. Such consultants shall have the same standing to testify and to be cross-examined as may be necessary as any other witnesses at the hearing.

- j. After the hearing officer has closed all testimony and closed the public comment portion of the hearing, and a complete transcript has been made of the proceedings up to that point, Commissioners will then begin their deliberations in order to prepare a recommendation. Before beginning their deliberations, the Commissioners shall be required to sign an affidavit attesting that they have received and read all the transcripts of the proceedings as a substitute for any sessions at which any Commissioner may not have attended. The deliberative and recommendation phase of the proceedings by the Commission shall require the normal quorum of four members to be in attendance.
 - k. The hearing shall be treated as if it were equal in all respects to a hearing conducted in normal circumstances by the members of the Commission, except that the attendance of one Commissioner shall be deemed to constitute a quorum for the purposes of the hearing officer alternative process.
 - l. Members of the public shall be allowed to obtain copies of any documents filed with the Village upon application and payment to the Village of the actual cost of reproduction in accordance with the Freedom of Information Act.
 - m. The Village, in consultation with the hearing officer and the Commission, shall have the authority to establish reasonable rules and procedures for the conduct of hearings and the order of business to be followed during hearings.
4. ORDER OF BUSINESS: The order of presentation of testimony and evidence at a public hearing shall generally be as follows, but

may be modified as determined appropriate by the hearing officer:

- a. Identification of petitioner.
 - b. Submittal of proof of notice.
 - c. Testimony and other evidence by petitioner.
 - d. Hearing officer examination of petitioner's witnesses and other evidence.
 - e. Examination of petitioner's witnesses and other evidence by any person appearing at the hearing. Examination by persons appearing at the hearing shall be limited to the scope of the testimony presented on direct questioning by the petitioner and the hearing officer.
 - f. Re-examination by the petitioner.
5. DECISION: At the conclusion of the evidentiary portion of the public hearing, the Commission may, among other actions, move to deliberate its decision on the evidence presented, or continue the hearing to a date, time and location certain. A written decision shall be prepared which shall include findings of fact and the Commission's recommendation or decision based upon the record. The written decision of the Village Board may adopt the Commission's findings. However, if the decision of the Village Board is based upon facts different from the Commission, such findings of fact must be made a part of the record.
6. ADDITIONAL EVIDENCE OF TESTIMONY: Evidence or testimony may only be presented at the public hearing. If the Village requires additional evidence, or if any person desires to present additional evidence after

the close of the public hearing, the public hearing shall be re-opened and conducted in accordance with these rules.

30.04 NOTICES FOR HEARINGS

Within a reasonable time following receipt of all papers and documents relating to a petition for a variation, a petition for conditional use, an application for planned unit development, or a petition for amendment of the regulations or zoning district boundaries established by the Lake in the Hills Zoning Code, the public shall be notified as follows:

1. There shall be published in a newspaper of general circulation within the Village a notice of the time and place of a public hearing before the scheduled Planning and Zoning Commission. Such notice shall be published not less than 15 days nor more than 30 days, prior to the hearing; shall contain a legal description and common address or location of the property for which the ruling or recommendation is being sought; and shall include a brief description of the nature of the matter being heard. The responsibility for the publishing of the public notice is that of the petitioner.
2. There shall be a sign posted upon the property involving the petition of the size and coloring and with letters of sufficient size as to be clearly legible to the public view on the nearest public way for at least 15 consecutive days prior to the hearing. The sign shall specify the requested change in zoning, conditional use or variance applied for, and the date of the public hearing. It shall be the owner's responsibility to post the sign within 30 feet of the nearest public way in front of the property prior to the hearing. The petitioner shall be responsible for maintaining the visibility of the sign from said public way.
3. In addition to the above, notice by means of certified mail shall be sent by the petitioner to the owners of all property adjoining and within 200 feet adjacent to the property in question.

The 200 feet shall not include public streets or alleys. Such notice shall be given within 15 days, but not more than 30 days prior to the hearing. For the purpose of notice, owner shall mean the person to whom the most recent statement of real property taxes on the property in question was sent or the most current of record. Mailing of same shall be certified to the hearing body. On cases of a variation in a residential zoning district, the petitioner may choose to hand deliver a copy of the legal notice to each property owner as stated above. If this option is chosen, the petitioner must submit "Hearing Acknowledgment Forms" signed and dated by each property owner to the Chairman at the public hearing.

30.05 APPEALS

A. HEARING OF APPEALS: The Commission is authorized to hear and decide all appeals from and review any requirement, decision or determination made by an administrative official charged with the enforcement of the ordinance or resolution. An appeal may be taken by any person aggrieved or by any officer, department or board of the Village.

B. TIME LIMITS INVOLVING AN APPEAL: An appeal must be taken within 45 days of the action complained of having been taken. A hearing will be held at the earliest date with a decision by the Commission within 60 days of the hearing. The petitioner must file a copy of the appeal to the officer from whom the appeal is taken, the Commission, Recording Secretary and Clerk. The officer will forthwith transmit to the Village Board all the papers containing the record upon which the action appealed from was taken.

C. PROCEDURES: An appeal shall provide the following information:

1. The name and address of the applicant.
2. The location of the property.
3. The caption or other identifying date of decision being appealed.

4. The date on which the decision of the zoning officer was rendered.
5. Identification of the ordinance provisions in dispute, and the reason given by the building officer or any officer, department or board of the Village concerning the interpretation of the Lake in the Hills Zoning Code for his or her refusal to issue a permit.
6. A description of the proposed use, including a plot plan.
7. A specification of the grounds of the appeal.
8. Any other data required by the Commission necessary to reach a proper decision.
9. The appeal shall be signed by the petitioner or his or her attorney with their address and telephone number also supplied.

D. STAY OF PROCEEDINGS: An appeal stays all proceedings unless the officer from whom the appeal is taken provides the Commission with a certificate stating the proceeding would cause imminent peril to life or property.

E. Notice of Hearing must be given as required in Section 30.05-B herein as a minimum. Additional notice requirements may be imposed by the Commission.

F. The Commission may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal is taken. To reverse any order, requirement, decision or determination of the zoning officer, the concurring vote of four Commissioners is required.

30.06 STATEMENT OF POLICY

A. In addition to the procedures set forth in Sections 30.03 and 30.06-B of this Code, Robert's Rules of Order shall apply to the conduct of meetings and hearings.

B. The Commissioners recognize that in reliance upon their recommendations, the Village Board makes certain decisions and in reliance on those decisions, certain actions are then taken by an applicant. In order to fairly and promptly apprise any applicant of any change in the recommendation of the Commission, the Commission shall deviate from Robert's Rules of Order regarding reconsideration or the rescinding of a motion is as follows:

1. Motion to Reconsider:
 - a. Shall be made by a Commissioner voting on the prevailing side of the original motion.
 - b. Shall be made at the same meeting as the original motion.
2. Motion to Rescind:
 - a. Shall be made by a Commissioner voting on the prevailing side of the original motion.
 - b. Shall be made only during the following meeting.
 - c. A letter of intent to present a rescinding motion shall be mailed no later than seven days prior to the meeting at which the motion to rescind is to be made, stating the subject matter and the reason.
 - d. Shall require a vote of four Commissioners.

C. A simple majority vote will be sufficient except in those instances specifically requiring a definite member vote for passage.

D. The records of the Commissions' proceedings are public records and as such are available for reference and review in the Village Hall.

E. A Commissioner may vote on petitions not attended by reading the transcript of the proceedings prior to the voting meeting.

Recodified 02-14-02

Amended 07-10-03