

ARTICLE 16 - ZONING APPLICATIONS, HEARINGS, AND APPROVALS

PART A - APPLICATIONS AND HEARINGS

16-1 APPLICATIONS

16-1.1 **Place of Filing.** All applications filed pursuant to this Code shall be filed with the Office of the Village Administrator.

16-1.2 **Form; Number; Scale.** All applications filed pursuant to this Code shall be on forms supplied by the Village Administrator and shall be filed in such number of duplicate copies as the Village Administrator may by administrative order designate. 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 of the proposal being made and shall be folded to a size of eight and one-half (8-1/2) inches by eleven (11) inches.

16-1.3 **Filing Deadlines.**

- a. Applications Requiring Hearing or Meeting. An application requiring a public hearing or meeting will be scheduled for such hearing or meeting when all required information, in proper form and number, is filed with and accepted by the Village Administrator. Such information shall be submitted not less than forty-five (45) days prior to the requested hearing or meeting date for the Zoning Board of Appeals and Plan Commission; provided, however, that for variations for Single Family detached dwelling units within Residential Zoning Districts shall remain at not less than thirty (30) days prior to the requested hearing or meeting date for the Zoning Board of Appeals. All public hearings and meetings to consider applications filed pursuant to this Code shall, unless otherwise provided by order of the relevant Zoning Administrative Body, be scheduled at the same time as the regular meetings of such Zoning Administrative Body.
- b. Applications Not Requiring Hearing or Meeting. An application that does not require a public hearing or meeting shall be filed, in proper form and number and containing all required information, at least thirty-five (35) days prior to the time when action on the application is requested. An application so filed will be processed on a first-filed-first-processed basis.
- c. Supplemental Data. 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 twenty-one (21) days prior to the date on which it is to be considered at a public hearing or a meeting or acted upon in connection with such application. The filing

of such data shall, at the discretion of the Village Administrator, be cause to delay a requested or scheduled hearing, meeting or decision date.

16-1.4 **Fees.**

- a. Fee Established; Lien. Every application filed pursuant to this Code except those pertaining to one (1) single-family detached dwelling shall be subject to an application and filing fee as established from time to time by the Board of Trustees to recover the actual costs, as hereinafter defined, incurred by the Village in processing such application. The owner of the property 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, which has not been paid within thirty (30) days following the mailing of a written demand for such payment to the owner at the address shown on the application. Any lien filed pursuant to this Section 16-1.4 may be foreclosed in the manner provided by statute for mortgages or mechanics liens.
- b. Recoverable Costs. For purposes of establishing the fee due pursuant to Section 16-1.4, the actual costs incurred by the Village in processing an application shall be deemed to consist of the following items of direct and indirect expense:
 - 1) Legal Publication (direct cost);
 - 2) Recording Secretarial Services (direct cost);
 - 3) Court Reporter (direct cost);
 - 4) Administrative Review and Preparation (hourly salary times a multiplier sufficient to recover the direct and indirect cost of such service);
 - 5) Document Preparation and Review (hourly salary times a multiplier sufficient to recover the direct and indirect cost of such service);
 - 6) Professional and Technical Consultant Services (direct cost);
 - 7) Legal Review, Consultation, Advice, and Drafting (direct cost);
 - 8) Copy Reproduction (direct cost); and
 - 9) Document Recordation (direct cost).
- c. Condition of All Applications, Approvals, and Permits; Time Periods. Except as provided in Section 16-1.4.d., no application filed pursuant to this Code shall be considered complete unless and until all fees and deposits due pursuant to this Section 16-1 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 fees as required by this Section 16-1.

When this Code provides that the passage of time without decision or action shall be deemed an approval or a recommendation for approval, such time periods shall be tolled during any period of nonpayment of any required fee or deposit.

The failure to fully pay any such fee or deposit 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 or deposit relates.

- d. Waiver for Specified Public Bodies. The provisions of this Section 16.1 may be waived by the Board of Trustees for fees applicable to any application filed by any public body or agency deriving the majority of its revenues from taxes levied within the Village.

16-1.5 **Minimum Data Requirements.** Every application submitted pursuant to this Code shall contain such information as is required by order of the Village Administrator.

16-1.6 **Special Data Requests.** In addition to the data and information required pursuant to this Section 16.1 and by general rules and orders adopted and issued pursuant to this Code, every applicant shall submit such other and additional data, information, or documentation as the Village Administrator or any official, board or commission before which its application is pending may deem necessary or appropriate to a full and proper consideration and disposition of the particular application.

16-1.7 **Waiver of Application Requirements.** Notwithstanding any other provision of this Section 16.1, the Village Administrator shall have the authority to waive any requirement set forth in, or imposed pursuant to, Sections 16-1.1, 16-1.2, 16-1.3 or 16-1.5 when, in his or 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; provided, however, that any official board or commission before which such application may come shall continue to have the right to request additional information pursuant to Section 16-1.6 and to delay processing of such application until such information is provided and made available in accordance with the deadlines established in Section 16-1.3.

16-1.8 **Concurrent Applications.** When a proposed use or development requires more than one approval from the same official, board or commission,

applications for all such approvals may be filed concurrently notwithstanding the fact that approval of one application may be a pre-condition to approval of other applications. Such applications may, in the discretion of the official, officials, body, 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 pre-condition to its approval have first been approved.

- 16-1.9 **Withdrawal of Application.** An applicant may, providing that all fees due pursuant to the Code have first been paid, withdraw an application at any time prior to a final decision having been rendered with respect thereto. 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.

16-2 SUCCESSIVE APPLICATIONS

- 16-2.1 **Second Applications Without New Grounds Barred.** Whenever any application filed pursuant to this Code has been finally denied on its merits, a second application seeking essentially the same relief, whether or not in the same form or on the same theory, including without limitation a request to the Board of Trustees for a variation pursuant to Section 16-8 of this Code within one (1) year following a denial of lesser but essentially the same relief by the Zoning Board of Appeals pursuant to Section 16-8 of this Code, shall not be brought unless in the opinion of the official, 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.
- 16-2.2 **New Grounds to Be Stated.** Any such second application shall include a detailed statement of the grounds justifying consideration of such application.
- 16-2.3 **Summary Denial With or Without Hearing.** Any such second application may be denied by the Village Administrator summarily, and 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.
- 16-2.4 **Exception.** Whether or not grounds are stated, any such second application filed more than one year after the final denial of a prior application 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.

16-3 PUBLIC HEARINGS AND MEETINGS

16-3.1 **Setting Hearing or Meeting.** When the provisions of this Code require a public hearing or public meeting in connection with any application filed pursuant to this Code, the official or 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.

16-3.2 **Notice.**

a. Village Administrator to Give Notice. The Village Administrator shall cause notice to be given of public hearings and public meetings set pursuant to this Section 16.3 in the form and manner and to the persons herein specified.

b. Content of Notice. All notices shall include the date, time and place of such hearing or meeting; a description of the matter to be heard or considered; and a particular description of the location of the subject property, whether by address, legal description or other appropriate means. Notices of individual hearings or meetings may be combined for purposes of publication, so long as each separate hearing or meeting is clearly discernable in the notice.

c. Persons Entitled to Notice.

1) All Hearings and Meetings. Notice of every hearing or meeting set pursuant to this Section 16-3 shall be given:

By mail to any news medium or person that shall have filed a written request, accompanied by an annual fee as established from time to time by the Village Administrator to cover postage and handling, for notice of all public hearings or meetings held pursuant to this Code; provided, however, that no such fee shall be charged to any news medium that shall have filed such a written request. Such written request shall automatically expire on December 31 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.

Notice by mail as herein required shall be mailed no more than thirty (30) days and no fewer than fifteen (15) days before the Zoning Board of Appeals and Plan Commission public hearing or meeting date.

- 2) Hearings on Amendments, Special Use Permits, and Variations. In addition to notice as required by Section 16-3.2.c.1, notice of every public hearing set in connection with any application for an amendment to this Code, for a special use permit, or for a variation shall be given at least fifteen (15) days before, but no more than thirty (30) days before the hearing date:

By the Village Administrator by publication in a newspaper published in the Village of Libertyville, or if no newspaper is published in the Village of Libertyville, in a newspaper having general circulation in the Village of Libertyville; and

By the applicant by certified mail, return receipt requested, to the owners, as they appear on the last available tax records of the County of Lake (NOTE: if the owner is a bank or similar financial institution, include the Trust Number), of all property within two hundred fifty (250) feet in each direction of the subject property; provided, however, that the number of feet occupied by all public roads, streets, alleys and other public rights of way shall be excluded in computing the two hundred fifty (250) feet.

If a specific parcel is the subject of application, by posting a sign on the subject property. The sign shall be issued by the Village Administrator to the applicant for posting by the applicant and shall be posted on the property facing the street.

At least ten (10) days prior to the date of the public hearing, the applicant must provide the Village Administrator with a completed proof of service of notice, including return receipts and a list of the owners of record, and a completed Proof of Posting, on such forms as the Village Administrator may designate, evidencing compliance with the requirements for written notice and posting.

- 3) Hearing on Official Comprehensive Plan. In addition to notice as required by Section 16-3.2.c.1, notice of every public hearing set in connection with the adoption or amendment of the Official Comprehensive Plan shall be given by publication

in a newspaper of general circulation in Lake County at least fifteen (15) days before such hearing.

- 4) Hearings on Minimal Relief Application (MRA). In addition to notice as required by Section 16-3.2.c.1, notice of every public hearing set in connection with any application for an amendment to this Code for an MRA shall be given at least twenty-two (22) days before, but no more than thirty (30) days before the hearing date:

By the Village Administrator by publication in a newspaper published in the Village of Libertyville, or if no newspaper is published in the Village of Libertyville, in a newspaper having general circulation in the Village of Libertyville; and

By the applicant by certified mail, return receipt requested, to the owners, as they appear on the last available tax records of the County of Lake (NOTE: if the owner is a bank or similar financial institution, include the Trust Number), of all property within two hundred fifty (250) feet in each direction of the subject property; provided, however, that the number of feet occupied by all public roads, streets, alleys and other public rights of way shall be excluded in computing the two hundred fifty (250) feet.

If a specific parcel is the subject of application, by posting a sign on the subject property. The sign shall be issued by the Village Administrator to the applicant for posting by the applicant and shall be posted on the property facing the street.

At least ten (10) days prior to the date of the public hearing, the applicant must provide the Village Administrator with a completed proof of service of notice, including return receipts and a list of the owners of record, and a completed Proof of Posting, on such forms as the Village Administrator may designate, evidencing compliance with the requirements for written notice and posting.

16-3.3 **Referral to Village Departments.**

- a. Village Administrator to Refer Applications. The Village Administrator, not later than the time set pursuant to Section 16-3.2 for giving public notice, shall refer every application for which this Code requires a public hearing or meeting before the Plan Commission or the Zoning Board of Appeals to all appropriate Village departments.

- b. Review and Comments. Each Village department that is referred an application requiring a public hearing or meeting before the Plan Commission or Zoning Board of Appeals shall review such application and submit its comments thereon at least seven (7) days prior to the public hearing or meeting to the Village Administrator for review and consideration. After such review and consideration, a staff report will be prepared and made available to the appropriate Zoning Administrative Body, the applicant and any other persons, upon request prior to the public hearing or meeting.

16-3.4 **Conduct of Hearings.**

- a. Rights of All Persons. 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; provided, however, that the hearing body may exclude irrelevant, immaterial, or unduly repetitious evidence, information and statements.
- b. Adjournment of 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.
- c. Testimony to be Sworn. All testimony at any public hearing held pursuant to the provisions of this Code shall be given under oath.
- d. Right to Submit Written Testimony. Any person may at any time prior to the commencement of a public hearing hereunder, or during such hearing, or within such time as may be allowed by the hearing body following such hearing, submit written testimony in support of or in opposition to the application being heard. Such testimony shall be subscribed and sworn before an officer authorized to administer oaths and shall be made a part of the public record of the hearing.
- e. Unsworn Statements of Personal Opinion. The hearing body may, in its discretion, accept unsworn oral or written statements of personal, non-expert opinion in support of, or in opposition to, any application.
- f. Board or Commission Rules to Govern. All other matters pertaining to the conduct of public hearings shall be governed by the provisions of this Code pertaining to, and the rules promulgated by, the body conducting the hearing.

- 16-3.5 **Pre-Hearing and Pre-Meeting Examination and Copying of Application and Other Documents.** At any time following the giving of notice as required in this Section 16-3, and upon reasonable request, any person may examine the application and, except to the extent provided by the Illinois Freedom of Information Act or otherwise privileged pursuant to law, all other documents on file with the Village 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 Administrator to cover the cost of such copies.

PART B - ZONING CERTIFICATES

16-4 ZONING CERTIFICATES OF COMPLIANCE

- 16-4.1 **Purpose.** The Zoning Certificate of Compliance provides an opportunity for early staff review of all zoning applications and serves two general purposes. The application for a Zoning Certificate of Compliance serves as an adjunct to, and thus must be filed prior to or with, all other applications filed pursuant to this Code with respect to a specific use or development proposal. When so filed, it serves as a vehicle for routine plan review by the Village Administrator prior to consideration of special requests by Zoning Administrative Bodies, thus avoiding needless special reviews of defective plans. Issuance of a Zoning Certificate of Compliance evidences that a proposed use is in compliance with all provisions of this Code, except as specifically noted in the Certificate.
- 16-4.2 **Authority.** The Village Administrator shall have authority to issue Zoning Certificates of Compliance, but only in accordance with the provisions of this Section 16-4.
- 16-4.3 **Effect of Issuance of Zoning Certificate of Compliance.** The issuance of a Zoning Certificate of 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 that may be required by the codes and ordinances of the Village, including but not limited to a Building Permit, a Certificate of Occupancy, and subdivision approval.
- 16-4.4 **Certificate Required.** Unless a Zoning Certificate of Compliance shall have first been obtained from the Village Administrator or the Village Administrator shall have determined by administrative order that no Zoning Certificate of Compliance is required:

- a. The construction, reconstruction, remodeling, alteration or moving of any structure, including signs and fences, shall not be commenced; and
- b. No land vacant on the effective date of this Code shall be used or occupied for any purpose, except the raising of crops; and
- c. The grading, excavation, or improvement of land preliminary to any construction on, or use of, such land shall not be commenced; and
- d. Building or other permits pertaining to the construction, reconstruction, remodeling, alteration, or moving of any structure or the use of any land or structure shall not be issued by the Village; and
- e. No home occupation shall be established or maintained; and
- f. No accessory or temporary use or structure shall be established or maintained, except as provided in Article 9; and
- g. No land shall be annexed to the Village.

In any case where a Zoning Certificate of Compliance is not required under this Code, the Village Administrator shall, on written request, issue a certificate of such fact.

16-4.5 **Relation to Other Applications.** Except as provided in Section 16-1.8 of this Code, no application filed pursuant to Section 16-1 of this Code with respect to a specific use or development proposal shall be processed unless an application for a Zoning Certificate of Compliance shall first have been received, processed, and approved, or denied solely on one or more grounds that form the basis for the application filed pursuant to said Section 16-1. It is the intent of this Section 16-4.5 that no application filed pursuant to Section 16-1 of this Code with respect to a specific use or development proposal shall be processed until the Village Administrator is satisfied that the proposed use or development complies with the provisions of this Code in all respects except those within the scope of such application.

16-4.6 **Procedure.**

- a. Application. Applications for Zoning Certificates of Compliance shall be filed in accordance with the requirements of Section 16-1 of this Code.
- b. Action on Application. Within fourteen (14) days following receipt of a completed application for a Zoning Certificate of Compliance, the Village Administrator shall cause the application and related submissions to be reviewed for compliance with this Code and shall inform the applicant whether the application has been granted or

denied. In any case where an application is granted, the Village Administrator shall issue a Zoning Certificate of 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 LIBERTYVILLE 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 SECTION 16-5 OF THE LIBERTYVILLE ZONING CODE AND THE LIBERTYVILLE BUILDING CODE FOR DETAILS.

In any case where an application is denied, the Village Administrator shall state the specific reasons therefor and shall cite the specific provisions of this Code upon which such denial is based. If relief from such demand would be available pursuant to a companion application filed in connection with the application for a Zoning Certificate of Compliance, the Village Administrator shall so inform the applicant and shall promptly process such companion application, if compete. If such application is approved, the Village Administrator shall issue the requested Zoning Certificate of Compliance in accordance with the terms and conditions of such approval.

If relief from the Village Administrator's denial of a Zoning Certificate of Compliance would be available by variation, special permit or site plan review, but no application therefor has been filed, the Village Administrator shall so state and shall refer the applicant to the appropriate provisions of this Code.

- c. Contents of Certificate. Each Zoning Certificate of Compliance issued pursuant to this Section 16-4 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.
- d. Filing of Certificates. Every Zoning Certificate of Compliance issued pursuant to this Section 16-4 shall be kept on file in the Office of the Village Administrator and shall be a public record open to inspection in accordance with the provisions of the Illinois Freedom of Information Act.

16-4.7 **Limitations on Certificates.** A Zoning Certificate of Compliance shall become null and void six (6) months after the date on which it was issued unless within such period construction, reconstruction, remodeling, alteration or moving of a structure is commenced or a use is commenced.

16-4.8 **Void Certificates.** Any Zoning Certificate of 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.

16-5 RESERVED

PART C - INTERPRETATIONS, APPEALS, AND VARIATIONS

16-6 INTERPRETATIONS

- 16-6.1 **Purpose.** The interpretation authority established by this Section 16-6 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.
- 16-6.2 **Authority.** The Village Administrator, subject to the procedures, standards, and limitations of this Section 16-5, may render interpretations, including use interpretations, of the provisions of this Code and of any rule or regulation issued pursuant to it.
- 16-6.3 **Parties Entitled to Seek Interpretations.** Applications for interpretations may be filed by any person having an interest in the circumstances giving rise to the need for an interpretation; provided, however, that 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.
- 16-6.4 **Procedure.**
- a. Application. Applications for interpretations of this Code shall be filed in accordance with the requirements of Section 16-1 of this Code.
 - b. Action on Application. Within thirty-five (35) days after the receipt of a properly completed application for interpretation, the Village Administrator shall inform the applicant in writing of his or her interpretation, stating the specific precedent, reasons, and analysis upon which the determination is based. The failure of the Village Administrator to act within such thirty-five (35) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying the application rendered on the day following such period.
 - c. Appeal. Appeals from interpretations rendered by the Village Administrator may be taken to the Zoning Board of Appeals as provided in Section 16-7 of this Code.

16-6.5 **Standards for Use Interpretations.** The following standards shall govern the Village Administrator, and the Zoning Board of Appeals on appeals from the Administrator, in issuing use interpretations:

- a. No use interpretation, except with regard to Home Occupations, shall be given with respect to the Residential Districts.
- b. Any use defined in Article 2 of this Code shall be interpreted as therein defined.
- c. No use interpretation shall permit a use listed as a permitted use or a special permit use in any district to be established in any district in which such use is not so listed.
- d. No use interpretation shall permit any use in any district unless evidence shall be presented that demonstrates that it will comply with each use limitation established for that particular district.
- e. No use interpretation shall permit any use in a particular district unless such use is substantially similar to other uses permitted or specially permitted in such district and is more similar to such other uses than to uses permitted or specially permitted in a less restrictive district.
- f. If the proposed use is most similar to a use permitted only as a special permit 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 pursuant to Section 16-9 of this Code.
- g. No use interpretation shall permit the establishment of any use that would be inconsistent with the statement of purpose of the district in question.
- h. Subject to the foregoing conditions and limitations, the Village Administrator may, in rendering use interpretations, refer to the *North American Industrial Classification System*, Published 2007, and the use classification methodology used therein as a reference.

16-6.6 **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 that may be required by the codes and ordinances of the Village.

- 16-6.7 **Limitations on Favorable Use Interpretations.** Subject to an extension of time granted by the Village Administrator pursuant to Section 15-1.12 of this Code, no use interpretation finding a particular use to be permitted or specially permitted in a particular district shall be valid for a period longer than six (6) months after the date of issue unless a building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion, or a Zoning Certificate of Occupancy is obtained and the use is commenced within that period.

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 interpretation shall not be deemed to authorize any allegedly similar use for which a separate use interpretation has not been issued. Such interpretation shall automatically expire and cease to be of any force or effect if the particular use for which it was issued shall, for any reason, be discontinued for a period of six (6) consecutive months or more.

16-7 APPEALS

- 16-7.1 **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 resort to 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 Village 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.
- 16-7.2 **Authority.** Except as provided in Section 16-10 of this Code with regard to site plan review appeals, the Zoning Board of Appeals shall hear and decide appeals from, and review orders, decisions, determinations, or the failure to act, of the Village Administrator acting pursuant to his or her authority and duties under this Code and, to that end, the Zoning Board of Appeals shall have the same powers and be subject to the same standards and limitations as the Administrator with respect to any order, decision, or determination being appealed.
- 16-7.3 **Parties Entitled to Appeal.** An application for appeal to the Zoning Board of Appeals may be filed by any person aggrieved by an order, decision, determination, or failure to act of the Village Administrator acting pursuant to his or her authority and duties under this Code.

16-7.4 Procedure.

- a. Application. An application for appeal to the Zoning Board of Appeals shall be filed not later than forty-five (45) days after the action being appealed and in accordance with the requirements of Section 16-1 of this Code.
- b. Action by Village Administrator. Upon receipt of a properly completed application for an appeal, the Village Administrator shall forthwith transmit to the Zoning Board of Appeals the application together with all papers constituting the record upon which the action appealed from was taken.
- c. Public Meeting. A public meeting shall be set, noticed, and conducted by the Zoning Board of Appeals in accordance with Section 16-3 of this Code.
- d. Action by Zoning Board of Appeals. Within sixty (60) days after the close of the public meeting, the Zoning Board of Appeals shall render a decision on the appeal in the manner and form specified in Section 15-2.4 of this Code. Such decision may reverse, affirm, or modify, in whole or in part, the action appealed from and may include such order or determination as, in the opinion of the Zoning Board of Appeals, is proper to be made in the circumstances. The failure of the Zoning Board of Appeals to act within such sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying the appeal.

16-7.5 Stay of Proceedings. An application for appeal properly filed pursuant to Section 16-7.4 of this Code shall stay all proceedings in the furtherance of the action appealed from, unless the Village Administrator certifies to the Zoning Board of Appeals after the application for appeal has been filed with the Village Administrator that, by reason of facts stated in the certificate, a stay would, in the Village Administrator's opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed other than by a restraining order, which may be granted by the Zoning Board of Appeals or by the Circuit Court on application, upon reasonable written notice to the Village Administrator and on due cause shown.

16-7.6 Right to Hear Variation in Deciding Appeals. In any case where the application for appeal is accompanied by an application for variation in accordance with Section 16-8 of this Code, the Zoning Board of Appeals shall notice, hear, review, and make a recommendation to the Board of Trustees on, or shall grant or deny, such variation in compliance with the provisions of said Section 16-8 of this Code.

- 16-7.7 **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.

16-8 VARIATIONS

- 16-8.1 **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 Article 16, the variation procedure is necessarily inappropriate.
- 16-8.2 **Authority.** In accordance with the procedures and standards set out in this Section 16-8, the Board of Trustees by ordinance duly adopted, and the Zoning Board of Appeals by written order, shall have the authority to grant variations from the provisions of this Code, but only in those specific instances enumerated in Sections 16-8.5 and 16-8.6 and then only in accordance with each of the standards enumerated in Section 16-8.7.
- 16-8.3 **Parties Entitled to Seek Variations.** Applications for variations may be filed by the owner of, or any person having a contractual interest in, the subject property.
- 16-8.4 **Procedure.**
- a. **Pre-application Conference.**
 - 1) ***Request.*** In any case where a variation is to be sought pursuant to this Section 16-8, the applicant shall request a pre-application conference with the Village Administrator prior to filing his or her application.
 - 2) ***Required Information.*** Prior to scheduling a pre-application conference, the applicant shall provide required information to the Village Administrator, including, but not limited to, a brief and general description of the nature, location, and extent of the proposed variation.
 - 3) ***Procedure.*** Upon receipt of all required information, the Village Administrator shall promptly schedule such conference and notify the applicant of the time and place of such conference and of the names and affiliations of other persons who have been invited to attend. The Village Administrator shall conduct such conference, and its purpose shall be to

broadly acquaint all other parties with the proposals, views, and concerns of all other parties at a time when positions are still flexible and adjustment is still possible.

- b. **Application.** Applications for variations shall be filed in accordance with the requirements of Section 16-1 of this Code.
- c. **Variations by Board of Trustees.**
 - 1) Public Hearing. In the case of a variation permitted pursuant to Section 16-8.5, a public hearing shall be set, noticed, and conducted by the Zoning Board of Appeals in accordance with Section 16-3 of this Code.
 - 2) Action by Zoning Board of Appeals. Within sixty (60) days after the conclusion of the public hearing, the Zoning Board of Appeals shall render its recommendation in the manner and form specified in Section 15-2.4 of this Code, recommending: (i) granting the variation, (ii) granting the variation with conditions, (iii) granting a variation less than or different from the variation sought or (iv) denying the variation. The failure of the Zoning Board of Appeals to act within such sixty (60) days, or such further time to which the applicant may agree, shall be deemed a recommendation to grant the variation.
 - 3) Action by Board of Trustees. Within sixty (60) days or longer if agreed upon by the Village and applicant after the receipt of the recommendation of the Zoning Board of Appeals, or its failure to act as above provided, the Board of Trustees shall either deny the application or, by ordinance duly adopted, shall grant the variation, with or without modification or conditions; provided, however, that no variation shall be granted within six (6) months after the effective date of this Code or of any comprehensive amendment to this Code unless such variation is passed by a two-thirds vote of the Corporate Authorities then holding office; and provided further, however, that if the proposed variation did not receive, or is not deemed by this Code to have received, a favorable recommendation of the Zoning Board of Appeals, such variation shall not be passed except by a two-thirds vote of all the Trustees then holding office. The failure of the Board of Trustees to act within such forty-five (45) days, or such further time to which the applicant may agree, shall be deemed a decision denying the variation rendered on the day following such period.

d. **Variations by Zoning Board of Appeals.**

- 1) Public Hearing. In the case of a variation permitted pursuant to Section 16-8.6, a public hearing shall be set, noticed, and conducted by the Zoning Board of Appeals in accordance with Section 16-3 of this Code.
- 2) Action by Zoning Board of Appeals. Within ten (10) days after the conclusion of the public hearing, the Zoning Board of Appeals shall render a decision in the form specified by Section 15-2.4.g of this Code, either: (i) granting the variation, (ii) granting the variation with conditions, (iii) granting a variation less than or different from the variation sought or (iv) denying the variation; provided, however, that no variation shall be granted within six (6) months after the effective date of this Code or of any comprehensive amendment to this Code unless such variation is passed by a two-thirds vote of the members of Zoning Board of Appeals then holding office. The failure of the Zoning Board of Appeals to act within such ten (10) days, or such further time to which the applicant may agree, shall be deemed a decision granting the variation.

16-8.5 **Authorized Variations - Board of Trustees.**

- a. Permitted Variations. Subject to the prohibitions set forth in this Section 16-8.5 and subject to the other provisions of this Section 16-8, the Board of Trustees may vary the provisions of this Code in the following cases and in no others:
 - 1) To reduce certain yard, setback, and building spacing requirements by one hundred (100%) percent the dimension of a rear yard, side yard, front yard or setback or building space.
 - 2) To reduce by not more than ten percent (10%) the required lot area or lot width of any lot; provided, however, that no such variation shall permit either the development of more than one (1) dwelling unit in addition to the number of dwelling units that could be developed in the absence of such a variation or any increase in the otherwise permitted maximum floor area ratio.
 - 3) To increase the maximum allowable building coverage or lot coverage, but not by more than five percent (5%) of the district requirement in the C-2 Downtown Community Commercial District, the C-3 General Commercial District, and the O-1 Professional Services Office District and not by more than

twenty percent (20%) of the district requirement in every other district.

- 4) To increase the maximum allowable height of a building or structure, but not by more than twenty-five percent (25%) of the district requirement.
- 5) To vary certain parking and loading space requirements as follows:
 - i) to vary, without limit, the location of any required parking space or loading space and associated circulation aisles, but not including any encroachment into any required perimeter landscaped open space; and
 - ii) to vary, without limit, the required size of any parking space or loading space; and
 - iii) to reduce by not more than twenty-five percent (25%) or one (1) space, whichever is greater, the minimum number of parking spaces or loading spaces otherwise required.
- 6) To vary, without limit, the number of parking or loading spaces required in connection with a change of use or an increase in use intensity.
- 7) To increase the maximum distance that required parking is permitted to be located from the zoning lot of the use for which such parking is provided.
- 8) To vary certain perimeter landscaped open space regulations as follows:
 - i) to reduce by not more than fifty percent (50%) the amount of perimeter landscaped open space otherwise required; and
 - ii) to allow, without limit, encroachment of required parking spaces, loading spaces, and associated circulation aisles into required perimeter landscaped open space; and
 - iii) to allow a use or structure in any area on a lot in which perimeter landscaped open space is required, but only if the area in which the new use or structure is proposed

to be located is appropriate for such use or structure, and if all of the perimeter landscaped open space required pursuant to Section 13-2 of this Code is provided on the lot on which such use or structure is located, and if establishment or construction of such use or structure does not result in any reduction of the amount of required perimeter landscaped open space.

- iv) to reduce, without limit, the amount of perimeter landscaped open space required in order to allow for the alteration, modification or addition to an existing structure or for the erection of any new structure to be located on the zoning lot of any permitted or special permitted use located within the Institutional Buildings District. However, no variation granting a reduction of required perimeter landscaped open space in excess of fifty percent (50%) along any lot line which abuts a Residential District shall be valid unless the Applicant has first obtained approval of a landscaping plan by the Board of Trustees. Said landscaping plan shall be designed to provide appropriate screening of the structure to be erected within the required perimeter landscaped open space and shall first be submitted by the Applicant to the Appearance Review Commission for its review. The Appearance Review Commission shall consider the plan and submit its recommendations regarding said plan to the Board of Trustees. Following receipt of the recommendation of the Appearance Review Commission, the Board of Trustees shall, by a majority of the Trustees then holding office, either approve the plan as submitted, approve the plan with changes as recommended by the Appearance Review Commission, approve the plan with changes as may be required by the Board of Trustees, or reject the plan and deny or revoke the variation requested by the Applicant.
- v) to reduce, without limit, the amount of perimeter landscaped open space required, but only within an outdoor storage area which is permitted or specially permitted in an Industrial District and which is fully enclosed in compliance with the requirements of Section 13-5.1 of this Code.

- 9) To allow the moving of a nonconforming use or structure to an extent or in a manner not permitted by Section 14-2 or Section 14-3 of this Code.
- 10) To allow the otherwise prohibited restoration of a partially damaged or destroyed structure devoted to a nonconforming use or of a nonconforming structure, sign or fence.
- 11) To allow the otherwise prohibited structural alteration, restoration or repair of a structure devoted to a nonconforming use when necessary to comply with the order of a public official who is charged with protecting public safety and who has declared the structure to be unsafe.
- 12) To vary, without limit, the bulk, yard, setback, and space requirements when a zoning lot, whether vacant or legally used, is reduced in size, by reason of the exercise of the right of eminent domain by an authorized governmental body or by reason of a conveyance made under the specific threat of an eminent domain proceeding, so that the remainder of said zoning lot, or any structure or use on said zoning lot, does not conform with one or more of such bulk, yard, setback, or space requirements of the district in which said zoning lot is located.
- 13) To vary, except as limited in Section 16-8.5.a.16, the regulations of Section 10-1.5.c of this Code related to off-street storage of vehicles in Residential Districts.
- 14) To vary, without limit, notwithstanding any other provision of this Section 16-8.5.a, the regulations of Article 11 of this Code relating to signs.
- 15) To vary, without limit, notwithstanding any other provision of this Section 16-8.5.a, the regulations of Sections 13-9.2.b, 13-9.2.c, and 13-9.3 of this Code related to fences.
- 16) To vary the regulations of Section 13-9.1.d of this Code related to the appearance of fences; provided, however, that no such variation shall permit the fence supports to face the exterior, or finished side of a fence to face the interior of the lot line on which the fence is located along a lot line, or any portion thereof, that does not either (a) abut an active railroad right-of-way or (b) with respect to fences located on residentially zoned lots, abut a lot zoned in a Commercial District.

- 17) To allow public utility structures, other than buildings, which are necessary for the transmission, distribution or storage of cable television, electricity, gas, sewer, telephone or water service to exceed the maximum height regulations of the district in which the structure is located.
- 18) To increase by not more than twenty percent (20%) the permitted maximum floor area ratio in an IB, Institutional Buildings District which abuts a C-1, Downtown Core Commercial District and C-2, Downtown Community Commercial District.
- 19) To vary, without limit, notwithstanding any other provision of this Section 16-8.5.a, the regulations of Section 4-8.4.a.4 and Section 4-9.4.a.4 related to the orientation of Private Garage Doors.
- 20) To vary, without limit, notwithstanding any other provision of this Section 16-8.5.a, the regulations of Section 4-8.4.h and Section 4-9.4.g related to the orientation of the Principal Structure on a Zoning Lot.
- 21) Subject to the limitations set forth in this paragraph, to vary the requirements of Section 17-5.3.b of this Code which require frontage on an improved public street. No variation from said Section shall be approved which would permit the erection of a building on a vacant lot of record or a vacant zoning lot unless at least one-third (1/3) of the length of the front lot line of said lot of record or zoning lot fronts upon an improved public street.
- 22) To vary the regulations of Section 13-5.2 of this Code related to the location of refuse enclosures, but only in the IB, Institutional Buildings District and provided, however, that no such variation shall be allowed except in corner lots and when no other practical location for a refuse enclosure is available on the property.
- 23) To vary, without limit, the thirty-five foot (35') restriction imposed by Section 5-2.4.c.1 of this Code upon the location of Office and Financial Institution Uses.
- 24) To vary, without limit, the twenty-five percent (25%) limitation upon Office and Financial Institution Uses imposed by Section 5-2.4.c.2 of this Code.

- 25) To vary, without limit, notwithstanding any other provisions of this Section 16-8.5.a, the regulations of Section 13-8.1 related to the required screening, screening material and color of roof top mechanical equipment and vent stacks.
- 26) To vary, without limit, notwithstanding any other provisions of this Section 16-8.5.a, the regulations of Section 8-2.4.b of this Code related to Recreational Lighting.
- 27) To vary, without limit, the regulations of Section 14-4.1 of this Code related to lot area and lot width for legal nonconforming lots of record that are located in residential districts.

Nothing in this Section 16-8.5 shall be construed to create any right or entitlement for any applicant to a variation of any kind or magnitude.

- b. Prohibited Variations. Notwithstanding any other provision of this Section 16-7.5, no variation shall be granted that (a) is intended as a temporary measure only or (b) is greater than the minimum variation necessary to relieve the particular hardship or practical difficulty demonstrated by the applicant.

16-8.6 **Authorized Variations - Zoning Board of Appeals.**

- a. Permitted Variations. Subject to the prohibitions set forth in this Section 16-8.6, and subject to the other provisions of this Section 16-8, the Zoning Board of Appeals may vary the provisions of this Code in the following cases and in no others:
 - 1) To reduce by not more than five percent (5%) the dimension of any required yard, setback, or building spacing required pursuant to this Code.
 - 2) To increase the maximum allowable height of any fence.

Nothing in this 16-8.6 shall be construed to create any right or entitlement for any applicant to a variation of any kind or magnitude.

- b. Prohibited Variations. Notwithstanding any other provision of this Section 16-8.6, no variation shall be granted that (a) is intended as a temporary measure only or (b) is greater than the minimum variation necessary to relieve the particular hardship or practical difficulty demonstrated by the applicant.

16-8.7 **Standards for Variations.**

- a. General Standard. No variation shall be granted pursuant to this Section 16-8 unless the applicant shall establish that carrying out the strict letter of the provisions of this Code would create a particular hardship or a practical difficulty. Such a showing shall require proof that the variation being sought satisfies each of the standards set forth in this Section 16-8.7.
- b. Unique Physical Condition. The subject lot is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including the presence of an existing use, structure, fence or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot or its existing development rather than the personal situation of the current owner of the lot.
- c. Not Self-Created. The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title, other than the construction of structures that were lawful at the time of such construction, and existed at the time of the enactment of the provisions from which a variation is sought or was created by as a result of natural forces or governmental action, other than the adoption of this Code.
- d. Denied Substantial Rights. The carrying out of the strict letter of the provision from which a variation is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other lots subject to the same provision.
- e. Not Merely Special Privilege. The alleged hardship or difficulty is neither merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely the inability of the owner to make more money from the use of the subject lot; provided, however, that where the standards set out in this Section 16-8.7 are met, the existence of an economic hardship shall not be a prerequisite to the grant of a variation.
- f. Code and Plan Purposes. The variation would not result in a use or development of the subject lot that would be not in harmony with the general and specific purposes for which this Code and the provision

from which a variation is sought were enacted or the general purpose and intent of the Official Comprehensive Plan.

- g. Essential Elements of the Area. The variation would not result in a use or development on the subject lot that:
- 1) Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity; or
 - 2) Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity; or
 - 3) Would substantially increase congestion in the public streets due to traffic or parking; or
 - 4) Would unduly increase the danger of flood or fire; or
 - 5) Would unduly tax public utilities and facilities in the area; or
 - 6) Would endanger the public health or safety.
- h. No Other Remedy. There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject lot.

16-8.8 **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 relief requested.

16-8.9 **Conditions on Variations.** The Board of Trustees or 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 any lot benefitted 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 lot or upon public facilities and services. Such conditions shall be expressly set forth in the ordinance or motion 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.

16-8.10 **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 approvals that may be required by the codes and ordinances of the Village.

Except when otherwise provided in this Code or in the ordinance or motion granting a variation, every variation granted pursuant to this Section 16.8 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.

- 16-8.11 **Limitations on Variations.** Subject to an extension of time granted by the Village Administrator pursuant to Section 15-1.12 of this Code, 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 Zoning Certificate of Occupancy is issued and the use is commenced within that period.

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 shall be removed and not replaced within six (6) months after such removal.

- 16-8.12 **Minimal Relief Application (MRA).** A request for a variation from the strict application of the zoning ordinance for any single-family, single family attached and two-family uses. An MRA may be used only when the relief sought varies by ten percent (10%) or less from the numerical requirements of the Zoning Code. An MRA applies only to structures and not to uses. An MRA may only be granted for Minimum Yard requirements for front, rear and corner side yard setbacks. The MRA shall not be granted for any Specified Structures or Uses in Required Yards which are permitted under the Zoning Code.

- a. Requirements for Application. An application for any MRA may be filed with the Village Administrator by the legal or equitable owner or a contract purchaser of the subject property. An application for MRA shall be on a form provided by the Village Administrator and shall contain a detailed statement of the purpose for which the MRA is sought. Applications must be accompanied by all necessary information, exhibits and other fees as required by the village for the requested action.
- b. Notification. Notification is required in conformance with Section 16-3.2 of Zoning Code.
- c. Conditions on MRAs. The Village may impose any condition or limitation concerning use, construction, character, location, landscaping, screening and other matters relating to the purposes and objectives of this Code upon the premises benefited by an MRA. Such conditions may be as necessary or appropriate to prevent or minimize any adverse impact on other properties or improvements in the area or upon public facilities and services. Violation of any such condition or

limitation shall be a violation of this code and shall constitute grounds for revocation of the MRA by the Village of Libertyville.

- d. Occupancy Certificates. Any structure for which an MRA has been granted shall comply with all conditions imposed on the grant of MRA before a final occupancy certificate may be issued.
- e. Fee Schedule. Any application filed pursuant to this Code shall be subject to an application and filing fee as established from time to time by the Board of Trustees to recover the actual costs, as identified in Section 16-1.4 of this Code, incurred by the Village in processing such application.
- f. Effect of Grant of MRA. The grant of an MRA 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 approvals that may be required by the codes and ordinances of the Village.

Except when otherwise provided in this Code or in the ordinance or motion granting an MRA, every MRA granted pursuant to this Section 16.8 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.

- g. Limitations on MRA. Subject to an extension of time granted by the Village Administrator pursuant to Section 15-1.12. of this Code, no MRA 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 Zoning Certificate of Occupancy is issued and the use is commenced within that period.
- h. Matters to be Considered in Deciding Whether or Not to Grant an MRA. The applicant must provide actual evidence on each of the following issues as it pertains to the applicant's request:
 - 1) To what extent is the applicant responsible for the condition that is the subject of the request?
 - 2) Was the regulation from which relief is sought in existence when the applicant either purchased or improved the property?
 - 3) Has the applicant changed the property in some way so as to create the problem condition?

- 4) Might the applicant have taken some action in the past to prevent or avoid the problem, which is the subject of the request?
 - 5) Will the relief requested adversely affect public health, safety or welfare?
 - 6) Is there a reasonable alternative, which is consistent with the zoning ordinance? (If there is such an alternative, but the applicant believes the additional cost is prohibitive, then it is the applicant's burden to set forth the cost of each alternative.)
 - 7) Will the relief requested exceed the minimum necessary to accomplish the applicant's stated purpose?
 - 8) Will the relief requested be out of character with the neighborhood?
 - 9) Are there other structures within the same zoning district in the Village, which either violate or have received a variation from the same regulation?
- i. Procedures When an MRA is Requested. An application for an MRA shall be submitted to the Village on a form provided by the Village Administrator. The MRA shall be reviewed and decided in accordance with the following procedure:
- 1) Notification. Notification is required in conformance with Section 16-3.2 of Zoning Code.
 - 2) Village Administrator's Report. If no written objection to the MRA application and notice is received within fifteen (15) days following the required mailing, the Village Administrator or his designate may grant the requested relief.
 - 3) Hearing on an MRA before the Zoning Board of Appeals. If the Village Administrator denies the application, or if the applicant disagrees with the conditions attached by the Village Administrator, or if a written objection is received, then only the Zoning Board of Appeals may approve the request after conducting a hearing in accordance with the procedures specified in this article for Variations.
- j. Dilatory Applications. If an applicant applies for an MRA after the applicant, or the applicant's predecessor, acted in violation of this Code or a previously granted MRA, then no other MRA may be granted, unless as a condition of the requested relief, the applicant pays for all Village costs associated with the violation activity, including, but not limited to, staff time, engineering, legal fees and any other costs associated with the Village's enforcement and review efforts.

PART D - SPECIAL PERMITS**16-9 SPECIAL USE PERMITS**

- 16-9.1 **Purpose.** Special permit uses are those uses having some special impact or uniqueness that requires a careful review of their location, design, configuration, and special impact to determine, against fixed standards, 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, in each case, of the public need and benefit against the local impact and effect.
- 16-9.2 **Authority.** The Board of Trustees, in accordance with the procedures and standards set out in this Section 16-9 and by ordinance duly adopted, may grant special use permits authorizing the development of uses listed as special uses in the regulations applicable to the district in which the subject property is located.
- 16-9.3 **Parties Entitled to Seek Special Use Permits.** An application for a special use permit may be filed by the owner of, or any person having a contractual interest in, the subject property.
- 16-9.4 **Procedure.**
- a. Pre-application Conference.
- 1) *Request.* In any case where a special use permit is to be sought pursuant to this Section 16-9, the applicant shall request a pre-application conference with the Village Administrator prior to filing his or her application.
 - 2) *Required Information.* Prior to scheduling a pre-application conference, the applicant shall provide required information to the Village Administrator, including, but not limited to, a brief and general description of the nature, location, and extent of the proposed special permit use.
 - 3) *Procedure.* Upon receipt of all required information, the Village Administrator shall promptly schedule such conference and notify the applicant of the time and place of such conference and of the names and affiliations of other persons who have been invited to attend. The Village Administrator shall conduct such conference, and its purpose shall be to broadly acquaint all other parties with the proposals, views, and concerns of all other parties at a time when positions are still flexible and adjustment is still possible.

- b. Application. Applications for special use permits shall be filed in accordance with the requirements of Section 16-1 of this Code.
- c. Public Hearing. A public hearing shall be set, noticed, and conducted by the Plan Commission in accordance with Section 16-3 of this Code.
- d. Action by Plan Commission. Within sixty (60) days after the conclusion of the public hearing, the Plan Commission shall transmit to the Board of Trustees its recommendation in the form specified in Section 15-2.4 of this Code, recommending: (i) granting the special use permit, (ii) granting the special use permit subject to modifications or conditions, or (iii) denying the special use permit. The failure of the Plan Commission to act within such sixty (60) days, or such further time to which the applicant may agree, shall be deemed a recommendation for the approval of the special use permit.
- e. Action by Board of Trustees. Within sixty (60) days or longer if agreed upon by the Village and the applicant after the receipt of the recommendation of the Plan Commission, or its failure to act as above provided, the Board of Trustees shall either deny the special use permit or, by ordinance duly adopted, grant the special use permit, with or without modifications or conditions; provided, however, that if the proposed special use permit did not receive, or is not deemed by this Code to have received, a favorable recommendation of the Plan Commission, such special use permit shall not be passed except by a majority vote of all the Trustees then holding office. The failure of the Board of Trustees to act within such forty-five (45) days, or such further time to which the applicant may agree, shall be deemed a decision denying the special use permit rendered on the day following such period.

16-9.5 **Standards for Special Use Permits.**

- a. General Standards. No special use permit shall be recommended or granted pursuant to this Section 16-9 unless the applicant shall establish that:
 - 1) Code and Plan Purposes. The proposed use and development will be in harmony with the general and specific purposes for which this Code was enacted and for which the regulations of the district in question were established and with the general purpose and intent of the Official Comprehensive Plan.
 - 2) Adverse Impact. The proposed use and development will not have a substantial adverse effect upon adjacent property, the character of the area, or the public health, safety, and general welfare.

- 3) Interference with Surrounding Development. 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.
 - 4) Adequate Public Facilities. 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.
 - 5) Traffic Congestion. The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through local streets and will, when required by the Board of Trustees, incorporate appropriate vehicular trip reduction features such as, but not limited to, pedestrian/bicycle linkages within and between land uses, the use of traffic mitigation plans, and the incorporation of elements to encourage and facilitate the use of public transportation.
 - 6) Destruction of Significant Features. The proposed use and development will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.
 - 7) Compliance with Standards. The proposed use and development complies with all additional standards imposed on it by the particular provision of this Code authorizing such use.
- b. Special Standards for Specified Special Permit Uses. When the district regulations authorizing any special permit use in a particular district impose use limitations that must be met by such use in such district, a special permit use for that use in that district shall not be recommended or granted unless the applicant shall establish compliance with such special standards.
- c. Considerations. In determining whether the applicant's evidence establishes that the foregoing standards have been met, the Plan Commission and the Board of Trustees shall consider:
- 1) Public Benefit. 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.
 - 2) Alternative Locations. 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.

- 3) Mitigation of Adverse Impacts. 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.

16-9.6 **Conditions on Special Use Permits.** The Plan Commission may recommend and the Board of Trustees may impose such conditions and limitations concerning use, construction, character, location, traffic generation and impacts, landscaping, screening, and other matters relating to the purposes and objectives of this Code upon the premises benefitted by a special use permit 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; provided, however, that such conditions shall not be used as a device to grant a permit for a special permit use that is intended to be temporary in nature. Such conditions shall be expressly set forth in the ordinance granting the special use permit. 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.

16-9.7 **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 permits or approvals that may be required by the codes and ordinances of the Village.

A special use permit shall not, unless otherwise specifically stated in the ordinance granting the special use permit, or except as otherwise provided in Section 16-13.8 of this Code, prohibit the establishment of any other use permitted as of right by the regulations of the district in which the premises benefitted by the special use permit are located.

Except when otherwise provided in this Code or in the ordinance granting a special use permit, a special permit use 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.

16-9.8 **Limitations on Special Use Permits.** Subject to an extension of time granted by the Village Administrator pursuant to Section 15-1.12 of this Code, 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 unless a Zoning Certificate of Occupancy is issued and the use commenced within that period.

A special use permit shall be deemed to authorize only the particular use for which it was issued, and such permit shall automatically expire and cease to be of any force or effect if such use shall, for any reason, be discontinued for a period of six (6) consecutive months or more.

16-9.9 **Amendments to Special Use Permits; Exemption for Minor Additions in the IB Institutional Buildings District.** A special use permit may be amended, varied, or altered only pursuant to the procedures and subject to the standards and limitations provided in this Section 16-9 for its original approval; provided, however, that minor additions to special permits granted in the IB Institutional Buildings District may be approved by an ordinance adopted by the Board of Trustees without the necessity of following the other procedures required by this Section 16-9 for its original approval if, but only if such minor addition meets all of the standards established by this Section 16-9.9, as well as each of the following additional standards:

- a. The special permit use and the minor addition shall be on a zoning lot five (5) acres or greater in size; and
- b. The minimum yards provided for such minor addition shall be one and one-half (1-1/2) times the minimum yards required by Section 8-3.5.d of this Code; and
- c. No aspect of any such minor addition violates any of the Standards for Denial of Site Plan Permits set forth in Section 16-10.6.a of this Code.

For the purposes of this Section 16-9.9, a “minor addition” shall mean any addition that does not, either individually, or in combination with all other additions approved during the same calendar year, exceed fifteen thousand (15,000) square feet in floor area.

16-10 SITE PLAN PERMITS

16-10.1 **Purpose.** The site plan permit process recognizes that even those uses and developments that have been determined to be generally suitable for location in a particular district are capable of adversely affecting the purposes for which this Code was enacted unless careful consideration is given to critical design elements. It is the purpose of this Section 16-10 to provide a vehicle for the review of the developer's attention to such elements.

16-10.2 **Authority.** Except in the cases of uses and developments requiring a special use permit pursuant to Section 16-9 of this Code other than planned developments, and except in any case involving a site with a gross area of ten (10) acres or more, the Village Administrator, in accordance with the procedures and standards set out in this Section 16-10, may grant site plan permits for uses and developments requiring such permits pursuant to Section 16-10.3. In case of uses and developments requiring a special use permit

pursuant to Section 16-9 of this Code other than planned developments, and in any case involving a site with a gross area of ten (10) acres or more, the Board of Trustees, in accordance with the procedures and standards set out in this Section 16-10 and by ordinance duly adopted, may grant site plan permits for uses and developments requiring such permits pursuant to Section 16-10.3. A site plan permit may also be sought by appeal to the Board of Trustees in any case of a denial of a site plan permit by the Village Administrator.

16-10.3 Site Plan Permit Required.

- a. Village Administrator Approval. A site plan permit issued by the Village Administrator in accordance with this Section 16-10 shall be required in connection with all development or redevelopment other than any development or redevelopment where a site plan permit by the Board of Trustees is required pursuant to Section 16-10.3.b, or for the development or redevelopment of any individual single family detached dwelling, any two family dwelling or any structure, paving or landscaping accessory thereto.
- b. Board of Trustees Approval. A site plan permit issued by the Board of Trustees in accordance with this Section 16-10 shall be required in connection with any development or redevelopment, other than a "minor addition" as defined in Section 16-9.9 of this Code, for which this Code requires a special use permit, excluding planned development approval, or that involves a site with a gross area of ten (10) acres or more. A site plan permit may also be sought by appeal to the Board of Trustees in any case of a denial of a site plan permit by the Village Administrator.

16-10.4 Parties Entitled to Seek Site Plan Permits. Applications for site plan permits may be filed by the owner of, or any person having a contractual interest in, the subject property.

16-10.5 Procedure.

- a. Pre-application Conference.
 - 1) Request. In any case where a site plan permit is to be sought pursuant to this Section 16-10, the applicant may request a pre-application conference with the Village Administrator prior to filing his or her application.
 - 2) Required Information. Prior to scheduling a pre-application conference, the applicant shall provide required information to the Village Administrator, including, but not limited to, a brief and general description of the nature, location, and extent of the proposed site plan.

- 3) *Procedure.* Upon receipt of all required information, the Village Administrator shall promptly schedule such conference and notify the applicant of the time and place of such conference and of the names and affiliations of other persons who have been invited to attend. The Administrator shall conduct such conference, and its purpose shall be to broadly acquaint all other parties with the proposals, views, and concerns of all other parties at a time when positions are still flexible and adjustment is still possible.
- b. Village Administrator Approvals.
- 1) *Application.* Applications for site plan permits to be issued by the Village Administrator shall be filed in accordance with the requirements of Section 16-1 of this Code.
 - 2) *Action by Village Administrator.* Within thirty-five (35) days after receipt by the Village Administrator of a properly completed application, the Village Administrator shall cause such application and the attached site plan to be reviewed, in terms of the standards established by Section 16-10.6 and by appropriate members of his or her staff. If the Village Administrator determines that such review necessitates a meeting between the applicant and Village Staff, the applicant will be duly notified of such meeting and will be asked to attend. The Village Administrator then shall either: (i) grant a site plan permit for the site plan as submitted, with or without conditions and limitations as specified in Section 16-10.7; or (ii) on the basis of written findings in accordance with Section 16-10.6, grant a site plan permit subject to specific modifications, with or without conditions and limitations as specified in Section 16-10.7; or (iii) on the basis of such findings, deny the site plan permit. In the case of any denial, suggestions as required by Section 16-10.6.b shall be provided.

Immediately upon concluding his or her review, the Village Administrator shall return one copy of the site plan to the applicant marked to show either approval, with or without conditions and limitations, approval subject to modifications, with or without conditions and limitations, or denial of approval. Any such modifications, conditions or limitations shall be clearly and permanently marked on such plans. The Village Administrator shall maintain a similarly marked set of such plans in his or her files for any further processing that may be required. The failure of the Village Administrator to act within such thirty-five (35) days, or such further time to

which the applicant may agree, shall be deemed to be a decision granting a site plan permit for the site plan as submitted rendered on the day following such period.

- 3) Effect of Village Administrator's Action. The action of the Village Administrator in granting a site plan permit for a site plan, with or without conditions and limitations or in granting a site plan permit for a site plan subject to modifications, with or without conditions and limitations, shall constitute a final administrative action and shall not be subject to further review by, or appeal to, any Village board or commission; provided, however, that any such modifications, conditions or limitations are acceptable to the applicant. The action of the Village Administrator in denying an application for a site plan permit or in granting a site plan permit for a site plan subject to modifications, conditions or limitations that are not acceptable to the applicant (which action the applicant may treat as a denial) shall not be considered final action by the Village but shall only be authorization for the applicant to seek a site plan permit from the Board of Trustees by way of the appeal procedure set forth below.
- c. Appeals. Within forty-five (45) days after a denial of a site plan permit by the Village Administrator, the applicant may seek issuance of the site plan permit by filing an application for appeal to the Board of Trustees in accordance with the provisions set forth in Section 16-10.5.d below.
 - d. Board of Trustees Approvals: Original and Appellate.
 - 1) Application. Applications for site plan permits to be issued by the Board of Trustees shall be filed in accordance with the requirements of Section 16-1 of this Code. In cases where review by the Board of Trustees is sought by way of an appeal of a denial of a site plan permit by the Village Administrator, the application for appeal shall be filed within forty-five (45) days after such denial.
 - 2) Action by Village Administrator. Upon receipt of a properly completed application for site a plan permit originally to be issued by the Board of Trustees, the Village Administrator shall forthwith transmit to the Plan Commission the application for the site plan permit. Upon receipt of a properly completed application for an appeal of a denial of a site plan permit by the Village Administrator, the Village Administrator shall forthwith transmit to the Plan Commission the application for appeal, the original application for a site plan permit, all papers

constituting the record upon which the Village Administrator's denial was based, and a copy of the Village Administrator's decision denying the application for the site plan permit.

- 3) Public Meeting. A public meeting shall be set, noticed, and conducted by the Plan Commission in accordance with Section 16-3 of this Code.
- 4) Action by Plan Commission. Within thirty-five (35) days after the conclusion of the public meeting, the Plan Commission shall transmit to the Board of Trustees its recommendation, in the form specified in Section 15-2.4 of this Code, recommending either: (i) granting of a site plan permit for the site plan as submitted, with or without conditions and limitations as specified in Section 16-10.7; or (ii) on the basis of written findings in accordance with Section 16-10.6, granting of a site plan permit subject to specific modifications, with or without conditions and limitations as specified in Section 16-10.7; or (iii) on the basis of such findings, denial of the site plan permit. In the case of any recommendation for denial, suggestions as required by Section 16-10.6.b shall be provided. The failure of the Plan Commission to act within such thirty-five (35) days, or such further time to which the applicant may agree, shall be deemed to be a recommendation for granting of a site plan permit for the site plan as submitted.
- 5) Action by Board of Trustees. Within sixty (60) days or longer if agreed upon by the Village and applicant after the receipt of the recommendation of the Plan Commission, or its failure to act as above provided, the Board of Trustees, by ordinance duly adopted, shall grant a site plan permit for the site plan as submitted, with or without conditions and limitations as specified in Section 16-10.7, or shall make modifications acceptable to the applicant and grant a site plan permit for such modified site plan, with or without conditions and limitations as specified in Section 16-10.7, or shall deny the site plan permit in the manner hereinafter specified either with or without a remand to the Plan Commission for further consideration. In the case of any denial, suggestions as required by Section 16-10.6.b shall be provided. The failure of the Board of Trustees to act within such forty-five (45) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying site plan permit rendered on the day following such period.

16-10.6 Standards for Denial of Site Plan Permits.

- a. Standards. Neither the Village Administrator nor the Board of Trustees shall deny a site plan permit, and the Plan Commission shall

not recommend the denial of a site plan permit for a site plan submitted pursuant to this Section 16-10 except on the basis of specific written findings directed to one or more of the following standards:

- 1) The application is incomplete in specified particulars or contains or reveals violations of this Code or other applicable regulations that the applicant, after written request, has failed or refused to supply or correct.
- 2) The application has been submitted in connection with another application, the approval of which is a condition precedent to the necessity for site plan review, and the applicant has failed to secure approval of that application.
- 3) The proposed site plan fails to meet adequately specified standards required by this Code with respect to the proposed use or development, including special use permit standards where applicable.
- 4) The proposed site plan fails to meet the policies of the Village, or requirements of relevant public utilities regarding protection of, or development within or adjacent to, all easements or rights-of-way.
- 5) The proposed site plan unnecessarily or unreasonably destroys or detracts from the enjoyment of significant natural, topographical, physical or historic features of the site, including but not limited to:
 - i) Failing to provide adequate measures to preserve existing healthy and long-lived trees wherever practically feasible;
 - ii) Failing to design drainage facilities to promote the use and preservation of natural watercourse and patterns of drainage;
 - iii) Failing to avoid unnecessary or unreasonable alterations to existing topography.
 - iv) Failing to include adequate protection for important views and vistas as identified in adopted plans.
- 6) The proposed site plan fails to meet the Institute of Traffic Engineer's Transportation and Traffic Engineer's Handbook standards, or other Village-adopted standards, for smooth and efficient traffic flow either on- or off-site or to incorporate appropriate vehicular trip reduction features such as, but not limited to, pedestrian/bicycle linkages within and between land uses, the use of traffic mitigation plans and the incorporation of elements to encourage and facilitate the use of public transportation.

- 7) The landscaping and screening of the site fails to provide adequate shielding from, or for, nearby uses or relies on the use of plant materials that are not compatible with the climate of the region and micro-climate conditions on the site.
 - 8) The proposed structures or landscaping are unreasonably lacking in amenities in relation to, or are incompatible with, nearby structures and uses.
 - 9) In the case of site plans submitted in connection with an application for a special use permit, the proposed site plan fails to make adequate provision for the creation or preservation of open space or for its continued maintenance.
 - 10) The proposed site plan creates unreasonable drainage or erosion problems or fails to integrate the site fully and satisfactorily into the overall existing and planned drainage systems serving the Village.
 - 11) The proposed site plan places unwarranted or unreasonable burdens on specified utility systems serving the site or area or fails to integrate the site's utilities fully and satisfactorily into the overall existing and planned utility systems serving the Village.
 - 12) The proposed site plan does not provide for required public uses designated on the Official Map.
 - 13) The proposed site plan otherwise adversely affects the public health, safety, or general welfare, or is incompatible with adjacent properties, in specified particulars.
 - 14) In the case of site plans submitted for a site included within a Planned Industrial District general development plan approved pursuant to Section 26-194(j) of the Municipal Code as it existed prior to the effective date of this Code and deemed under Section 17-6.1 of this Code to be an approved Final Plan pursuant to the provisions of Section 16-13.4.c of this Code, the proposed site plan does not conform to the approved general development plan as amended pursuant to Section 17-16.1 of this Code.
- b. Alternative Approaches. In citing any of the foregoing standards, other than Sections 16-10.6.a.1 and 16-10.6.a.2, as the basis for denying a site plan permit, the Village Administrator, the Plan Commission or the Board of Trustees, as the case may be, shall suggest alternate site plan 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.

16-10.7 **Conditions on Site Plan Permits.** The Village Administrator may impose, and the Plan Commission may recommend and the Board of Trustees may impose, such conditions and limitations concerning the standards set forth in

Section 16-10.6 of this Code, as well as to other matters relating to the purposes and objectives of this Code upon the premises benefitted by a site plan permit 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; provided, however, that such conditions shall not be used as a device to grant a site plan permit for a use that is intended to be temporary in nature. Violations of any such condition or limitation shall be a violation of this Code and shall constitute grounds for revocation of the site plan permit. Such conditions and limitations imposed by the Village Administrator shall be clearly and permanently marked on such plans. Such conditions and limitations imposed by the Board of Trustees shall be expressly set forth in the ordinance granting the site plan permit.

- 16-10.8 **Effect of Issuance of a Site Plan Permit.** Issuance of a site plan 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 permits or approvals that may be required by the codes and ordinances of the Village.

A copy of every approved site plan shall be filed with the Village Administrator and the development of the site shall be in conformity with such approved and filed plan.

- 16-10.9 **Limitations on Site Plan Permits.** Subject to an extension of time granted by the Village Administrator pursuant to Section 15-1.12 of this Code, no site plan 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 unless a Zoning Certificate of Occupancy is issued and the use commenced within that period.

- 16-10.10 **Adjustments to Site Plan During Development.**

- a. Site Plan Permits Issued by the Village Administrator. During the development of the site, the Village Administrator may authorize adjustments to a site plan originally approved by the Administrator.
- b. Site Plan Permits Issued by the Board of Trustees.
 - 1) *Minor Adjustments.* During the development of the site, the Village Administrator may authorize minor adjustments to a site plan approved on appeal by the Board of Trustees or originally approved by the Board of Trustees 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:

- i) Altering the location of any one structure or group of structures by not more than ten (10) feet or one-fourth (1/4) of the distance shown on the approved site plan between such structure or structures and any other structure or any vehicular circulation element or any boundary of the site plan, whichever is less.
- ii) Altering the location of any circulation element by not more than ten (10) feet or one-fourth (1/4) of the distance shown on the approved site plan between such circulation element and any structure, whichever is less.
- iii) Altering the location of any open space by not more than twenty (20) feet.
- iv) Altering any final grade by not more than twenty percent (20%) of the originally planned grade.

Any such minor adjustment approved pursuant to this Section 16-10.10.b.1 shall be consistent with the intent and purpose of this Code and the site 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.

- 2) Major Adjustments. Any adjustment to a site plan originally approved by the Board of Trustees or approved on appeal by the Board of Trustees that is not authorized by Section 16-10.10.b.1 shall be considered to be a major adjustment and shall be granted only upon application to, and approval by, the Board of Trustees. The Board of Trustees may, by ordinance duly adopted, 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 site plan. If the Board of Trustees determines that a major adjustment is not in substantial conformity with the site plan as approved, then the Board of Trustees shall refer the request to the Plan Commission for further consideration and review as provided in Section 16-10.5 of this Code.

- c. Site Plan Adjustments. All such adjustments approved pursuant to this Section 16-10.9 shall be clearly and permanently marked on both the Village copy and the applicant's copy of the approved site plan.

16-10.11 **Amendments to Site Plan Following Completion of Development**. After a site is developed in accordance with an approved site plan, the approved site

plan may be amended, varied, or altered in the same manner and subject to the same limitations, as provided for original approval of the site plan in question.

16-11 RESERVED

16-12 SIGN PERMITS

- 16-12.1 **Purpose.** The Sign Permit process provides a procedure for the review of signs to ensure that all such signs will comply with the regulations of this Code and other applicable Village codes, ordinances, and regulations.
- 16-12.2 **Authority.** The Village Administrator, in accordance with the procedures and standards set out in this Section 16-12, may grant a Sign Permit for the construction or maintenance of a sign requiring a permit pursuant to this Section 16-12.
- 16-12.3 **Sign Permit Required.** Except only as provided in Section 11-7 of this Code for signs permitted without a sign permit, no sign visible from any street, sidewalk or public or private open space shall be erected, enlarged, expanded, altered, relocated, or otherwise modified without a sign permit having been issued therefor; provided, however, that no sign permit shall be required for routine maintenance of a sign or for changing the message on a sign including changeable copy.
- 16-12.4 **Parties Entitled to Seek Sign Permit.** Applications for sign permits may be filed by the owner of the property on which the sign is to be located or the owner's authorized agent. No person, firm or corporation shall erect, alter, or otherwise modify any sign requiring a permit without first meeting the following requirements:
- a. **Licensing.** A valid Sign Erector's License shall be obtained from the Village. Application for such license shall be made upon forms provided by the Village and payment of a fee established by the Village. Such license shall expire at the end of the fiscal year for which it is issued and shall not be transferrable to any other party and any license granted may be revoked if at any time the provisions of this or any other applicable codes or ordinances are violated. Electrical sign contractors shall be a Registered Electrical Contractor with the Village or provide proof of a current license from a village or city with an Electrical Testing Commission.
 - b. **Bonding.** A Permit and License Bond in the amount of \$5,000 shall be provided.

c. Certificate of Insurance. A certificate of insurance shall be filed with the Village and shall:

- 1) Be from an insurance company approved by the Village and shall name the Village as additionally insured.
- 2) Cover all work done within the Village for the term of the policy. The amount of insurance coverage required shall be as follows:

Comprehensive General Liability	\$2,000,000 General Aggregate
	\$1,000,000 per occurrence
Combined Umbrella	\$1,000,000 Aggregate
	\$1,000,000 per occurrence
Workmen's Comp. Insurance	\$500,000 each accident
	\$500,000 disease - policy limit
	\$500,000 disease - each employee

16-12.5 **Procedure.**

- a. Application. Applications for sign permits shall be filed in accordance with the requirements of Section 16-1 of this Code.
- b. Action on Application. The Village Administrator, within ten (10) days after the submission of a properly completed application for a sign permit and payment of all required fees, shall:
 - 1) Determine whether referral to the Appearance Review Commission is required pursuant to Section 16-12.6 and, if so, notify the owner or applicant of the need for such referral; or
 - 2) If referral to the Appearance Review Commission is not required, issue a sign permit if the proposed sign conforms in every respect with the requirements of this Code and has been issued a Zoning Certificate of Compliance pursuant to Section 16-4; or
 - 3) Deny the application if the proposed sign fails in any way to conform with the requirements of this Code.

If the Village Administrator denies the application, then the Village Administrator shall notify the applicant of the reasons for such denial.

16-12.6 **Referral to Appearance Review Commission Required.** Except as provided in Sections 11-7 and 11-8 of this Code, and except for any wall sign constructed in compliance with a Uniform Sign Package, no sign shall be erected without having first been referred to the Appearance Review Commission and approved by the Board of Trustees in accordance with the provisions of Chapter 7 Article II of the Municipal Code.

- 16-12.7 **Limitations on Sign Permits.** Subject to an extension of time granted by the Village Administrator pursuant to Section 15-1.12 of this Code, a sign permit shall become null and void six (6) months after the date on which it was issued unless the work authorized by such sign permit is commenced. A sign permit shall relate solely to the work shown on plans approved by the issuance of such sign permit and it shall be unlawful for any person to deviate from such plans without obtaining an amended permit in the same manner as herein provided for obtaining original permits.
- 16-12.8 **Inspections.** The Village may, at any time and from time to time, conduct an inspection of any sign within the Village for the purpose of ascertaining whether such sign is in compliance with the requirements of this Code.

PART E - PLANNED DEVELOPMENTS**16-13 PLANNED DEVELOPMENTS**

16-13.1 **Purpose.** Planned developments are included in this Code as a distinct category of special permit uses. As such, they are authorized in the Residential, Commercial, Office, Industrial, and IB Institutional Buildings Districts for the same general purposes as all other special permit uses. In particular, however, the planned development technique is intended to allow the relaxation of otherwise applicable substantive requirements based upon procedural protections providing for detailed review of individual proposals for significant developments. This special regulatory technique is included in this Code in recognition of the fact that traditional use, bulk, space, setback, and yard regulations that may be useful in protecting the character of substantially developed and stable areas may impose inappropriately rigid regulations upon the development or redevelopment of parcels or areas that lend themselves to an individual, planned approach. Through the flexibility of the planned development technique, the Village seeks to achieve the following specific objectives:

- a. The creation of a more desirable environment than would be possible through strict application of other Village land use regulations;
- b. The efficient use of land resulting in smaller networks of utilities and streets while lowering development and housing costs;
- c. The promotion of a creative approach to the use of land and related physical facilities resulting in better design and development, including aesthetic amenities;
- d. The combination and coordination of architectural styles, building forms, and building relationships;
- e. The preservation and enhancement of desirable site characteristics such as natural topography, vegetation, and geologic features, and the prevention of soil erosion;
- f. The provision for the preservation and beneficial use of open space;
- g. An increase in the amount of open space over that which would result from the application of conventional subdivision and zoning regulations; and
- h. The encouragement of land uses that promote the public health, safety and general welfare.

However, the planned development process shall not be used merely to subvert the purposes, regulations and requirements of this Code.

16-13.2 **Authority.** The Board of Trustees, in accordance with the procedures and standards set out in this Section 16-13 and by ordinance duly adopted, may grant special use permits authorizing the development of planned developments, but only in the districts where such developments are listed as an authorized special permit use.

16-13.3 **Parties Entitled to Seek Planned Development Approval.** An application for a special use permit to permit a planned development may be filed by the owner of, or any person having contractual interest in, the subject property.

16-13.4 **Forms of Submittal for Planned Developments and Procedures.**

a. Development Concept Plan.

Purpose. The Development Concept Plan is intended to provide the applicant an opportunity to submit a plan showing the basic scope, character, and nature of the entire proposed planned development without incurring undue cost. The Development Concept Plan is the basis on which the required public hearing is held, thus permitting public consideration of the proposal at the earliest possible stage. To permit the Village and the applicant to proceed with some assurance, approval of the Development Concept Plan binds the applicant and the Village with respect to the following basic elements of development:

- i) categories of uses to be permitted;
- ii) general location of residential and nonresidential land uses;
- iii) overall maximum density of residential uses and intensity of nonresidential uses;
- iv) the general architectural style of the proposed development;
- v) general location and extent of public and private open space, including recreational amenities;
- vi) general location of vehicular and pedestrian circulation systems;
- vii) staging of development;
- viii) nature, scope, and extent of public dedications, improvements, or contributions to be provided by the applicant; and
- ix) specific bulk, space and yard requirements, including maximum building height, minimum lot area and lot width, if applicable, minimum yard along perimeter of site, maximum floor area ratio, maximum lot coverage, minimum perimeter landscaped open space and minimum parking requirements.

b. Master Plan.

Purpose. The Master Plan is intended as an alternative to the Development Concept Plan, to address those situations involving larger parcels upon which an applicant intends to develop a planned development in phases but does not intend to submit all elements of the Master Plan for Final Plan Approval within one year of approval of the Master Plan. The Master Plan is the basis on which the required public hearing is held, thus permitting public consideration of the proposal at the earliest possible stage. The Master Plan option shall only be available for parcels which otherwise qualify for planned development consideration and which are fifty (50) acres, or larger, in total area. The Master Plan shall identify separate planning areas for the entire property within the proposed planned development and shall bind the applicant and the Village with respect to the following elements of development within each identified planning area, as follows:

- i) permitted and specially permitted categories of uses within each planning area identified by the Master Plan;
- ii) overall maximum density of residential uses and intensity of nonresidential uses;
- iii) the general architectural style of the proposed development;
- iv) general location and extent of public and private open space, including recreational amenities;
- v) general location of vehicular and pedestrian circulation systems;
- vi) nature, scope, and extent of public dedications, improvements, or contributions to be provided by the applicant; and
- vii) specific bulk, space and yard requirements, including maximum building height, minimum lot area and lot width, if applicable, minimum yard along perimeter of site, maximum floor area ratio, maximum lot coverage, minimum perimeter landscaped open space and minimum parking requirements.

c. Procedure.1) Pre-application Conference.

- i) Request. The applicant shall request a pre-application conference with the Village Administrator prior to filing his or her application for Development Concept Plan or Master Plan for approval pursuant to this Section 16-13.
- ii) Required Information. Prior to scheduling a pre-application conference, the applicant shall provide

- required information to the Village Administrator, including, but not limited to, a brief and general description of the nature, location, and extent of the proposed Development Concept Plan or Master Plan.
- iii) Procedure. Upon receipt of all required information, the Village Administrator shall promptly schedule such conference and notify the applicant of the time and place of such conference and of the names and affiliations of other persons who have been invited to attend. The Village Administrator shall conduct such conference, and its purpose shall be to broadly acquaint all other parties with the proposals, views, and concerns of all other parties at a time when positions are still flexible and adjustment is still possible.
- 2) Application. Applications for approval of a Development Concept Plan or Master Plan shall be filed in accordance with the requirements of Section 16-1 of this Code.
- 3) Coordination with Subdivision Code. When a subdivision of land subject to the Subdivision Code is proposed in connection with a planned development, application for, review of and approval of the preliminary plat of the proposed subdivision shall be carried out simultaneously with application for, review of and approval of the Development Concept Plan or Master Plan.
- 4) Public Hearing. A public hearing shall be set, noticed, and conducted by the Plan Commission in accordance with Section 16-3 of this Code.
- 5) Action by Plan Commission. Within sixty (60) days after the conclusion of the public hearing, the Plan Commission shall transmit to the Board of Trustees its recommendation, in the form specified by Section 15-2.4 of this Code, that the Development Concept Plan or Master Plan either be approved, be approved subject to modifications or conditions, or not be approved. The failure of the Plan Commission to act within such sixty (60) days, or such further time to which the applicant may agree, shall be deemed a recommendation for the approval of the Development Concept Plan or Master Plan as submitted.
- 6) Action by Board of Trustees. Within sixty (60) days after the receipt of the recommendation of the Plan Commission or its failure to act as above provided, the Board of Trustees shall deny the application for approval of the Development Concept Plan or Master Plan, or shall refer it back to the Plan Commission for further consideration of specified matters, or, by ordinance duly adopted, shall approve the Development

Concept Plan or Master Plan, with or without modifications and conditions to be accepted by the applicant as a condition of such approval, and shall grant a special use permit authorizing the proposed planned development and such additional approvals as may be necessary to permit development of the planned development as approved; provided, however, that if the proposed Development Concept Plan or Master Plan did not receive, or is not deemed by this Code to have received, a favorable recommendation of the Plan Commission, such Development Concept Plan or Master Plan and special use permit authorizing the proposed planned development shall not be passed except by a majority vote of all the Trustees then holding office; and provided, further however, that every such ordinance and special use permit shall be expressly conditioned upon approval of a Final Plan in accordance with Section 16-13.4.e or, in the case of a Master Plan in accordance with Section 16-13.4.f and upon the permittee's compliance with all provisions of this Code and the ordinance granting the special use permit.

The failure of the Board of Trustees to act within such sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying approval of the Development Concept Plan or Master Plan rendered on the day following such period.

- 7) Effect of Development Concept Plan and/or Master Plan Approval. Unless the applicant shall fail to meet time schedules for filing a Final Plan or shall fail to proceed with development in accordance with the Development Concept Plan or Master Plan, as approved or shall in any other manner fail to comply with any condition of this Code or any approval granted pursuant to it, the Village shall not, without the consent of the applicant, take any action to modify, revoke, or otherwise impair an approved Development Concept Plan or Master Plan with respect to the elements of development set forth in Section 16-13.4.a or 16-13.4.b (whichever is applicable) pending the application for approval of a Final Plan. In submitting an application for approval of a Final Plan, the applicant shall be bound by the approved Development Concept Plan or, if applicable, the Master Plan with respect to each such element.
- 8) Time Limitations and Requirement for Five Year Review:
 - i) Time Limitation for Completion of Master Plan Construction. The construction of all elements of the

Master Plan must be completed not later than twenty (20) years following approval of the Master Plan by the Board of Trustees. Following the expiration of such time period, any further construction commenced or completed shall no longer be subject to nor benefitted by the provisions of the Master Plan and any construction commenced or completed thereafter shall be subject to all of the then applicable provisions of this Code.

- ii) Five Year Review. Not earlier than fifty-four (54) months following the approval of a Master Plan and not later than five (5) years after such approval, the Plan Commission shall conduct a public hearing to review the progress and status of the Master Plan. At such public hearing, the applicant shall provide an update as to the status of the Master Plan and shall advise the Plan Commission of the construction which has been completed up until the date of such public hearing and the construction which the applicant reasonably believes will be completed within the five (5) year period following such public hearing. The applicant shall provide updates to the Plan Commission at additional public hearings to be conducted not later than every five (5) years thereafter. No such public hearing shall be conducted earlier than fifty-four (54) months following the previous public hearing held with respect to the Master Plan.

- d. Optional Simultaneous Submission of a Development Concept Plan and Final Plan. The applicant may, at his or her option, submit a Final Plan for the proposed planned development pursuant to the requirements of Section 16-13.4.e, or 16-13.4.f simultaneously with the submission of the Development Concept Plan or Master Plan pursuant to the requirements of Section 16-13.4.a and Section 16-13.4.b. In such case, the applicant shall comply with all provisions of this Code applicable to submission of the Development Concept Plan or Master Plan and to submission of the Final Plan. The Plan Commission and the Board of Trustees shall consider such plans simultaneously and shall grant or deny Final Plan approval in accordance with the provisions of Section 16-13.4.e or, where applicable, 16-13.4.f.

- e. Final Plan Following Approval of Development Concept Plan.
 - 1) Purpose. The Final Plan is intended to particularize, refine, and implement the Development Concept Plan and to serve as

a complete, thorough, and permanent public record of the planned development and the manner in which it is to be developed.

- 2) Application. Subject to an extension of time granted by the Village Administrator pursuant to Section 15-1.12 of this Code, within one (1) year after the date of approval of the Development Concept Plan, the applicant shall file an application for Final Plan approval in accordance with the requirements of Section 16-1 of this Code. The application may include the entire area included in the approved Development Concept Plan or one or more stages or units thereof in accordance with the staging plan, if any, approved as part of the Development Concept Plan. The application shall refine, implement, and be in substantial conformity with the approved Development Concept Plan and at a minimum shall include, where applicable, the following
 - i) A land use application;
 - ii) Proof of ownership;
 - iii) Property Owner's authorization;
 - iv) Narrative;
 - v) Plat of Survey;
 - vi) Site Plan;
 - vii) Elevations of proposed structures;
 - viii) Preliminary engineering plan;
 - ix) Trees survey by a certified arborist;
 - x) Landscape plan;
 - xi) Lighting Plan;
 - xii) Traffic study;
 - xiii) Fiscal impact analysis;
 - xiv) Sign plans; and
 - xv) Aerial photograph of site and surrounding area.
- 3) Public Meeting. A public meeting shall be set, noticed, and conducted by the Plan Commission in accordance with Section 16-3 of this Code.
- 4) Coordination with Subdivision Code. When a subdivision of land subject to the Subdivision Code is proposed in connection with a planned development, application for, review of and approval of the final plat of the proposed subdivision shall be carried out simultaneously with application for, review of and approval of the Final Plan.
- 5) Action by Plan Commission.
 - i) Evaluation. Within sixty (60) days after the filing of an application for approval of a Final Plan, the Plan

Commission shall, with such aid and advice of the Village staff and consultants as may be appropriate, review and act on the plan. Such review shall consider:

- a) whether the Final Plan is in substantial conformity with the approved Development Concept Plan;
 - b) the merit or lack of merit of any departure of the Final Plan from substantial conformity with the approved Development Concept Plan;
 - c) whether the Final Plan complies with any and all conditions imposed by approval of the Development Concept Plan; and
 - d) whether the Final Plan complies with the provisions of this Code and all other applicable federal, state, and Village codes, ordinances, and regulations.
- ii) Recommendation of Approval Based on Substantial Conformity. If the Plan Commission finds substantial conformity between the Final Plan and the approved Development Concept Plan and further finds the Final Plan to be in all other respects complete and in compliance with any and all conditions imposed by approval of the Development Concept Plan and with the provisions of this Code and all other applicable Federal, State, and Village codes, ordinances, and regulations, it shall transmit the Final Plan to the Board of Trustees with its recommendation, in the form specified in Section 15-2.4 of this Code, that the Board of Trustees approve the Final Plan, with or without modifications and conditions to be accepted by the applicant as a condition of approval; provided, however, that in no event shall such conditions of approval impair the rights granted by the Development Concept Plan approval.
- iii) Recommendation of Approval without Substantial Conformity. If the Plan Commission finds that the Final Plan lacks substantial conformity to the approved Development Concept Plan but merits approval notwithstanding such lack of conformity and otherwise conforms to the requirements of this Code, it shall transmit the Final Plan to the Board of Trustees with its recommendation, in the form specified in Section 15-2.4 of this Code, that the Final Plan be approved, with or without modifications and conditions to be accepted by the applicant as a condition of approval.

- iv) Recommendation of Denial. If the Plan Commission finds that the Final Plan is not in substantial conformity with the approved Development Concept Plan and does not merit approval, or if the Plan Commission requires modifications of a plan or imposes conditions that are not accepted by the applicant, the Plan Commission shall transmit the Final Plan to the Board of Trustees together with its recommendation, in the form specified in Section 15-2.4 of this Code, that the Final Plan not be approved.
 - v) Failure to Act. The failure of the Plan Commission to act within such sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a recommendation to the Board of Trustees to approve the Final Plan as submitted.
- 6) Submittal to Appearance Review Commission. Prior to any action being taken by the Board of Trustees pursuant to Section 16-13.4.e.7:
- i) The Final Plan shall be submitted to the Appearance Review Commission for review in accordance with the provisions of Chapter 7 of the Libertyville Municipal Code; and
 - ii) The recommendation of the Appearance Review Commission shall be transmitted to the Board of Trustees.
- 7) Action by Board of Trustees.
- i) Approval or Denial. Within sixty (60) days after the receipt of the recommendation of the Plan Commission, or its failure to act as above provided, the Board of Trustees shall either:
 - a) Approval Based on Substantial Conformity. If the Plan Commission has recommended approval of a Final Plan pursuant to Section 16-13.4.e.5.ii, the Board of Trustees shall, unless it specifically rejects one or more of the findings of the Plan Commission on the basis of expressly stated reasons, approve the Final Plan, with or without modifications and conditions, by a duly adopted ordinance; provided, however, that if the proposed Final Plan did not receive, or is not deemed by this Code to have

received, a favorable recommendation of the Plan Commission, such Final Plan shall not be passed except by a majority vote of all the Trustees then holding office; or

- b) *Approval Without Substantial Conformity.* The Board of Trustees may, if it finds that the Final Plan merits approval and otherwise conforms to the requirements of this Code, approve the Final Plan, with or without modifications and conditions, by a duly adopted ordinance; provided, however, that if the proposed Final Plan did not receive, or is not deemed by this Code to have received, a favorable recommendation of the Plan Commission, such Final Plan shall not be passed except by a majority vote of all the Trustees then holding office; or
- c) *Denial.* The Board of Trustees may, if it finds that the Final Plan does not merit approval or fails to conform to the requirements of this Code, deny approval of the Final Plan.

- ii) Referral Back to Plan Commission. In any case other than that specified in Section 16-13.4.e.7.i.a the Board of Trustees may refer the Final Plan back to the Plan Commission for further consideration of specified matters.
- iii) Conditions on Final Plan Approval. The approval of any Final Plan may be granted with or without modifications and conditions to be accepted by the applicant as a condition of approval; provided, however, that in no event shall such conditions of approval impair the rights granted by the Development Concept Plan approval.
- iv) Failure to Act. The failure of the Board of Trustees to act within such sixty (60) days or such further time to which the applicant may agree, shall be deemed to be a decision denying Final Plan approval rendered on the day following such period.

f. Final Plan Following Approval of Master Plan.

- 1) *Purpose.* The Final Plan is intended to particularize, refine, and implement elements of the Master Plan and to serve as a complete, thorough, and permanent public record of the

planned development and the manner in which it is to be developed.

- 2) Application. The applicant shall file an application for Final Plan approval with respect to those elements of the planned development as to which the applicant is seeking final approval. Said application shall be made in accordance with the requirements of Section 16-1 of this Code. The application may include a request for approval of any element of development within the approved Master Plan. The application shall refine, implement, and be in substantial conformity with the approved Master Plan and at a minimum shall include, where applicable, the following:
 - i) A land use application;
 - ii) Proof of ownership;
 - iii) Property Owner's authorization;
 - iv) Narrative;
 - v) Plat of Survey;
 - vi) Site Plan;
 - vii) Elevations of proposed structures;
 - viii) Preliminary engineering plan;
 - ix) Trees survey by a certified arborist;
 - x) Landscape plan;
 - xi) Lighting Plan;
 - xii) Traffic study;
 - xiii) Fiscal impact analysis;
 - xiv) Sign plans; and
 - xv) Aerial photograph of site an surrounding area.
- 3) Public Meeting. A public meeting shall be set, noticed, and conducted by the Board of Trustees in accordance with Section 16-3 of this Code.
- 4) Coordination with Subdivision Code. When a subdivision of land subject to the Subdivision Code is proposed in connection with a planned development, application for, review of and approval of the final plat of the proposed subdivision shall be carried out simultaneously with application for, review of and approval of the Final Plan.
- 5) Submittal to Appearance Review Commission. Prior to any action being taken by the Board of Trustees pursuant to Section 16-13.4.f.6:
 - i) The Final Plan shall be submitted to the Appearance Review Commission for review in accordance with the provisions of Chapter 7 of the Libertyville Municipal Code; and

- ii) The recommendation of the Appearance Review Commission shall be transmitted to the Board of Trustees.

6) Action by Board of Trustees.

- i) Evaluation. Within sixty (60) days after the filing of an application for approval of a Final Plan the Village Board shall, with such aid and advice of the Village staff and consultants as may be appropriate, review and act on the plan. Such review shall consider:

- a) whether the Final Plan is in substantial conformity with the approved Master Plan;
- b) the merit or lack of merit of any departure of the Final Plan from substantial conformity with the approved Master Plan;
- c) whether the Final Plan complies with any and all conditions imposed by approval of the Master Plan; and
- d) whether the Final Plan complies with the provisions of this Code and all other applicable Federal, State, and Village codes, ordinances, and regulations.

- ii) Approval or Denial. Following its evaluation, the Board of Trustees shall either:

- a) *Approval Based on Substantial Conformity.* If the Board of trustees finds that the Final Plan is in substantial conformity with the Master Plan, the Board of Trustees shall approve the Final Plan, with or without modifications and conditions, by a duly adopted ordinance; or
- b) *Approval Without Substantial Conformity.* If the Board of Trustees finds that the Final Plan merits approval and otherwise conforms to the requirements of this Code but is not in substantial conformity with the Master Plan, the Board of Trustees may , approve the Final Plan, with or without modifications and conditions, by a duly adopted ordinance which shall not be passed except by a majority vote of all of the Trustees then holding office; or

- c) *Denial.* The Board of Trustees may, if it finds that the Final Plan does not merit approval or fails to conform to the requirements of this Code, deny approval of the Final Plan.
 - iii) Referral Back to Plan Commission. In any case other than that specified in Section 16-13.4.f.6.i.a, the Board of Trustees may refer the Final Plan back to the Plan Commission for further consideration of specified matters.
 - iv) Conditions on Final Plan Approval. The approval of any Final Plan may be granted with or without modifications and conditions to be accepted by the applicant as a condition of approval; provided, however, that in no event shall such conditions of approval impair the rights granted by the Master Plan approval.
 - v) Failure to Act. The failure of the Board of Trustees to act within one hundred and twenty (120) days following the date of submission of the application for approval of a Final Plan or such further time to which the applicant may agree, shall be deemed to be a decision denying Final Plan approval rendered on the day following such period.
- g. Recording of Final Plan. When a Final Plan is approved, the Village Administrator shall cause the Final Plan, or such portions thereof as are appropriate, to be recorded with the Recorder of Deeds of Lake County.
 - h. Limitations on Final Plan Approval. Construction shall commence in accordance with the approved Final Plan within one (1) year after the approval of such Final Plan, or within such shorter time as may be established by the approved development schedule. Failure to commence construction within such period shall, unless an extension of time shall have been granted by the Village Administrator pursuant to Section 15-1.12 of this Code, automatically render void the Final Plan approval and all approvals of the planned development and all permits based on such approvals, and the Village Administrator shall, without further direction, initiate an appropriate application to revoke the special use permit for all portions of the planned development that have not yet been completed.
 - i. Building and Other Permits. The approval of a Final 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. Except as provided in this Section 16-13.4.i, appropriate officials of the Village may upon, but not before, receiving notice from the Village Administrator that the documents required for Final Plan approval have been approved, and upon proper application by the applicant, issue building and other permits to the applicant for the development, construction, and other work in the area encompassed by the approved Final Plan; provided, however, that no permit shall be issued unless the appropriate official is first satisfied that the requirements of any codes or ordinances of the Village that are applicable to the permit sought, have been satisfied.

Building permits may, however, be withheld at the discretion of the Village Administrator or the Board of Trustees at any time it is determined that the development of the planned development is not proceeding in strict compliance with the approved Final Plan.

16-13.5 Standards for Planned Development Approval.

- a. Special Use Permit Standards. No special use permit for a planned development shall be recommended or granted pursuant to this Section 16-13 unless the applicant shall establish that the proposed development will meet each of the standards made applicable to special permit uses pursuant to Section 16-9 of this Code.
- b. Additional Standards for All Planned Developments. No special use permit for a planned development shall be recommended or granted unless the applicant shall establish that the proposed development will meet each of the following additional standards:
 - 1) Unified Ownership Required. The entire property proposed for planned development treatment shall be in single ownership or under such unified control as to ensure that the entire property will be developed as a unified whole. All owners of the property shall be included as joint applicants on all applications and all approvals shall bind all owners. The violation of any owner as to any lot shall be deemed a violation as to all owners and all lots.
 - 2) Minimum Area. The district regulations of this Code establishing standards for particular types of planned development specify the minimum area required for planned developments (See Table 16-1). In addition to meeting that specific standard, the applicant shall have the burden of establishing that the subject property is of sufficient size and

TABLE 16-1
PLANNED DEVELOPMENTS
 Minimum Lot Area Requirements

Residential Districts	R-1	R-2	R-3	R-4	R-5	R-6	R-7	R-8
Minimum Lot Area (square feet)	400,000	200,000	100,000	75,000	50,000	37,500	36,000	36,000

Commercial Districts	C-1 Downtown Core Commercial	C-2 Downtown Community Commercial	C-3 General Commercial	C-4 Shopping Center Commercial	C-5 Vehicle Dealer Commercial
Minimum Lot Area (square feet)	20,000	40,000	40,000	160,000	100,000

Office Districts	O-1 Professional Services	O-2 Office, Manufacturing and Distribution Park
Minimum Lot Area (square feet)	15,000	120,000

Industrial Districts	I-1 Limited Industrial	I-2 East Downtown Transitional	I-3 General Industrial
Minimum Lot Area (s.f.)	60,000	60,000	60,000

Special Districts	OS Open Space	IB Institutional Buildings
Minimum Lot Area (s.f.)	NA	40,000

s.f. Square Feet
 NA Not Authorized

shape to be planned and developed as a unified whole capable of meeting the objectives for which planned developments may be established pursuant to this Section 16-13.

- 3) Covenants and Restrictions to be Enforceable by Village. All covenants, deed restrictions, easements, and similar restrictions to be recorded in connection with the planned development shall provide that they may not be modified, removed, or released without the express consent of the Board of Trustees and that they may be enforced by the Village as well as by future landowners within the proposed development.
- 4) Public Open Space and Contributions. Whenever the Official Comprehensive Plan or Official Map indicates that development of a planned development will create a need for land for public purposes within the proposed planned development, the Board of Trustees may require that such area be designated and, to the extent such need is specifically and uniquely attributable to the proposed development, dedicated to the Village or other appropriate government for such use. In addition, the Board of Trustees may require evidence that all requirements of Village ordinances pertaining to the dedication of land or the contribution of cash in connection with subdivisions or developments of land have been met as respects the proposed planned development, whether or not such proposed development would be otherwise subject to such ordinances.
- 5) Common Open Space.
 - i) Amount, Location, and Use. The failure of a planned development to provide common open space as follows:

<u>Districts</u>	<u>Amount of Open Space (Percent of Total Area)</u>
All Residential	30
All Commercial, and Office	15
IB Institutional Buildings	20
All Industrial	10

shall be considered to be an indication that it has not satisfied the objectives for which planned developments may be approved pursuant to this Code. When common open space is provided in a planned development, the amount and location of such open space shall be consistent with its intended function as set forth in the application and planned development plans. No such open space shall be used for the construction of any

structure or improvement except such structures and improvements as may be approved in the Final Plan as appropriate to the intended leisure and recreational uses for which such open space is intended.

- ii) Preservation. Adequate safeguards, including recorded covenants or dedication of development rights, shall be provided to prevent the subsequent use of common open space for any use, structure, improvement, or development other than that shown on the approved Final Plan. The restrictions must be permanent and not for a given period of years and must run with the land.
- iii) Ownership and Maintenance. The Final Plan shall include such provisions for the ownership and maintenance of common open space, including all improvements thereto, as are reasonably necessary to ensure their continuity, care, conservation, maintenance, and operation in accordance with pre-determined standards and to ensure that remedial measures will be available to the Village if such open space or improvements are permitted to deteriorate or are not maintained in a condition consistent with the best interests of the planned development or the Village.
- iv) Property Owners' Association. When the requirements of Section 16-13.5.b.5.iii are to be satisfied by the ownership or maintenance of such open space or improvements by a property owners' association, such association shall meet each of the following standards:
 - a) the by-laws and rules of the association and all declarations, covenants, and restrictions to be recorded must be approved as part of the Final Plan prior to becoming effective;
 - b) the by-laws and rules of the association and all declarations, covenants, and restrictions to be recorded shall each provide that it shall not be amended without the prior written consent of the Board of Trustees;
 - c) the association must be established and all covenants and restrictions must be recorded prior to the sale of any property within the area of the planned development designated to have use of the proposed open space or improvements;
 - d) the association must be responsible for property and liability insurance, taxes, and the

- maintenance of the open space and improvements to be deeded to it;
 - e) membership in the association must be mandatory for each property owner and any successive owner having a right to the use, enjoyment or benefit of such open space or improvements;
 - f) every property owner having a right to the use, enjoyment or benefit of such open space or improvements must pay its pro rata share of the cost of the association by means of an assessment to be levied by the association that meets the requirements for becoming a lien on the property in accordance with statutes of the State of Illinois;
 - g) the association must have the right to adjust the assessment to meet changed needs by a membership vote of not more than a majority of the members voting on the issue;
 - h) the Village must be given the right to enforce the declarations, covenants, and restrictions; and
 - i) the Village must be given the right, after ten (10) days' written notice to the association, to perform any maintenance or repair work that the association has neglected to perform, to assess the membership for such work and to have a lien against the property of any member failing to pay such assessment and, for this purpose alone, all the rights and powers of the association and its governing body under the agreements and declarations creating the association.
- v) Landscaping and Perimeter Treatment. Any area of a planned development not used for structures or circulation elements shall be landscaped. The perimeter of the planned development shall be treated so as to ensure compatibility with surrounding uses by means such as provision of compatible uses and structures, setbacks, screening, or natural or man-made buffers. Every planned development shall provide a perimeter landscaped open space along each of its boundaries; each such open space shall have a minimum depth equal to the minimum front yard required in the district in which it is located or which it abuts, whichever is greater.

- vi) Building Spacing. Building spacing shall be as determined by the Board of Trustees; provided, however, that no part of any building shall be closer to any part of any other building than ten (10) feet.
 - vii) Private Streets. Private streets are prohibited unless expressly approved by the Board of Trustees. If so approved, they shall meet all construction and right-of-way standards applicable to public streets. No such streets shall be approved except upon the condition that they shall be owned and maintained by a property owners' association meeting the requirements set forth in Section 16-13.5.b.5.iv.
 - viii) Sidewalks. Unless expressly waived by the Board of Trustees, a side-walk meeting the standards of the Subdivision Code shall be provided along each side of every street in or abutting a planned development.
 - ix) Utilities. All utility lines shall be installed underground.
- 6) Vehicular Trip Reduction Features. Features for reducing the number of vehicular trips expected by a development shall be incorporated into a planned development. Such features include, but are not limited to pedestrian/bicycle linkages within and between land uses, the use of traffic mitigation plans, and the incorporation of elements to encourage and facilitate the use of public transportation.
- c. Additional Standards for Specific Planned Developments. When the district regulations authorizing any planned development use in a particular district impose standards to be met by such planned development in such district, a special permit for such development shall not be recommended or granted unless the applicant shall establish compliance with such special standards.

16-13.6 **Conditions on Planned Development Approval.** The approval of either a Development Concept Plan or a Final Plan may be conditioned on such matters as the Board of Trustees may find necessary to prevent or minimize any possible adverse effects of the proposed planned development or to ensure its compatibility with surrounding uses and development and its consistency with the general purposes, goals, and objectives of this Code, the Subdivision Code, and the Official Comprehensive Plan; provided, however, that no such condition of Final Plan approval shall impair the rights granted by Development Concept Plan approval. Such conditions shall be expressly set forth in the ordinance granting the approval in question. Violation of any such condition or limitation shall be a violation of this Code and shall constitute grounds for revocation of all approvals granted for the planned development.

16-13.7 **Authority to Vary Regulations.**

- a. Authority. Subject to the standards and limitations hereinafter set forth, the Board of Trustees shall have the authority, in connection with the granting of any planned development approval pursuant to this Section 16-13, to change, alter, vary, modify or waive any provisions of this Code or of the Subdivision Code as they apply to an approved planned development.
- b. Standards. No such change, alteration, variation, modification, or waiver shall be approved unless the Board of Trustees shall find that the proposed planned development:
 - 1) Will achieve the purposes for which planned developments may be approved pursuant to Section 16-13.1 of this Code;
 - 2) Will not violate the general purposes, goals, and objectives of this Code and the Official Comprehensive Plan; and
 - 3) Will result in a development providing compensating amenities to the Village.
- c. General Limitation. No such change, alteration, variation, modification, or waiver shall be permitted with respect to the uses permitted or specially permitted in any district or with respect to any standard made specifically applicable to planned developments by the regulations of any particular district unless such regulations expressly authorize such a change, alteration, variation, modification, or waiver. The limitations of this Section 16-13.7.c shall not apply when any such change, alteration, variation, modification, or waiver would be consistent with a previous approval of the Board of Trustees under an ordinance duly adopted prior to the effective date of this Code in the same or any earlier phase of the same development, all as determined by the Board of Trustees.
- d. Specific Limitations in the O-2 and IB Districts. In granting any planned development approval pursuant to this Section 16-13, the Board of Trustees shall not under any circumstances:
 - 1) Increase the maximum floor area ratio applicable in any O-2 Office, Manufacturing and Distribution Park District to greater than 1.0; or
 - 2) Increase the maximum building height applicable in any O-2 Office, Manufacturing and Distribution Park District or any IB Institutional Buildings District to greater than one hundred five (105) feet.

The limitations of this Section 16-13.7.d shall not apply when any such change, alteration, variation, modification, or waiver would be consistent with a previous approval of the Board of Trustees under an ordinance duly adopted prior to the effective date of this Code in the same or any earlier phase of the same development, all as determined by the Board of Trustees.

16-13.8 **Regulation During and Following Completion of Development.** Following Final Plan approval, no use, structure (other than accessory structures having a floor area of less than five hundred (500) square feet, residential recreational facilities and recreational devices), or development, other than home occupations and temporary uses, not allowed by the Final Plan and the ordinance approving the Final Plan shall be permitted within the area of the planned development pursuant to the Zoning District regulations otherwise applicable to such area. If the Final Plan and the ordinance approving the Final Plan contain more or less restrictive regulations or impose higher or lower standards or requirements than the regulations of this Code, then those regulations, standards and requirements of the Final Plan and the ordinance approving the Final Plan shall govern rather than the corresponding regulation, standard or requirement of this Code.

16-13.9 **Inspection During Development.**

- a. Inspections by Village Administrator. After approval of the Final Plan of a planned development or any stage thereof, the Village Administrator, at least annually until the completion of development, shall review all permits issued and construction undertaken and compare actual development with the approved plans for development and with the approved development schedule.
- b. Action by Village Administrator. If the Village Administrator finds that development is not proceeding in accordance with the approved schedule, or that it fails in any other respect to comply with the Final Plan, the Village Administrator shall immediately notify the Board of Trustees of such fact and may, if necessary to protect the public health, safety, or welfare or to prevent further violation of this Code and the Final Plan, issue an order stopping any and all work on the planned development until such time as any noncompliance is cured.
- c. Action by Board of Trustees. Within sixty (60) days after notification by the Village Administrator, the Board of Trustees shall either:
 - 1) take such steps as it deems necessary to compel compliance with the Final Plan;
 - 2) require the owner or applicant to seek an adjustment to the Final Plan as provided in Section 16-13.10 of this Code; or

- 3) revoke the Final Plan approval of all uncompleted portions of the planned development, all prior plan approvals on which such Final Plan approval depends, and all permits based upon such approvals; in which event, the Village Administrator shall, without further direction, initiate appropriate procedures and actions to revoke the special use permit for all portions of the planned development that have not yet been completed and take such other action as may be appropriate to abate the violation.
- d. Failure to Act. Failure of the Board of Trustees to act within such sixty (60) days shall, unless the owner or applicant shall have cured the noncompliance within such period, be deemed a decision to revoke the Final Plan as provided in Section 16-13.9.c.3 rendered on the day following such period.

16-13.10 Adjustments to Final Plan During Development.

- a. Minor Adjustments. During the development of a planned development, the Village Administrator may authorize minor adjustments to the Final 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:
- 1) Altering the location of any one structure or group of structures by not more than ten (10) feet or one-fourth (1/4) of the distance shown on the approved Final Plan between such structure or structures and any other structure or any vehicular circulation element or any boundary of the planned development, whichever is less.
 - 2) Altering the location of any circulation element by not more than ten (10) feet or one-fourth (1/4) of the distance shown on the approved Final Plan between such circulation element and any structure, whichever is less.
 - 3) Altering the location of any open space by not more than twenty (20) feet.
 - 4) Altering any final grade by not more than twenty percent (20%) of the originally planned grade.

Any such minor adjustment approved pursuant to this Section 16-13.10.a shall be consistent with the intent and purpose of this Code and the Final 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 or of the ordinance approving the planned development.

- b. Major Adjustments. Any adjustment to the Final Plan not authorized by the preceding Section 16-13.10.a shall be considered to be a major adjustment and shall be granted only upon application to, and approval by, the Board of Trustees. The Board of Trustees may, by ordinance duly adopted, grant approval for a major adjustment without a hearing upon finding that any changes in the Final Plan as approved will be in substantial conformity with said Final Plan. If the Board of Trustees determines that a major adjustment is not in substantial conformity with the Final Plan as approved, then the Board of Trustees shall refer the request to the Plan Commission for further consideration and review as provided in Section 16-13.4.c of this Code.

All such adjustments approved pursuant to this Section 16-13.10 shall be clearly and permanently marked on both the Village copy and the applicant's copy of the approved Final Plan and shall be recorded in the same manner as provided in Section 16-13.4.d of this Code.

- 16-13.11 **As-Built Drawings Required.** Upon completion of a planned unit development, two (2) sets of as-built drawings shall be provided to the Village Administrator.
- 16-13.12 **Amendments to Final Plan After Completion of Development.** After completion of a planned development, an approved Final Plan may be amended, varied or altered in the same manner, and subject to the same limitations, as provided for major adjustments in Section 16-13.10; provided, however, that, notwithstanding any other provision of Section 16-13, the application for any such amendment, variation or alteration shall be required to be signed only by all owners of property within the planned development whose property is affected, in the determination of the Village Administrator, by the requested amendment, variation or alteration.
- 16-13.13 **Amendments to Master Plan.** At any time after the approval of the Master Plan by the Board of Trustees, the applicant may apply for an amendment to the Master Plan. Such application shall be subject to all submittal and procedural requirements applicable to approval of a Master Plan as set forth in Section 16-13.4.

PART F - AMENDMENTS -- OFFICIAL ZONING MAP AND TEXT

16-14 AMENDMENTS

- 16-14.1 **Purpose.** The amendment process established by this Section 16-14 is intended to provide a means for making changes in the text of this Code and in the Zoning Map that have more or less general significance or application. 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.
- 16-14.2 **Authority.** This Code, including the Zoning Map, may be amended from time to time by ordinance duly enacted by the Board of Trustees in accordance with the procedures set out in this Section 16-14.
- 16-14.3 **Parties Entitled to Seek Amendments.** An application for an amendment may be filed by the Board of Trustees, the Plan Commission, the Zoning Board of Appeals, the owner of, or any person having a contractual interest in, any property to be affected by a proposed amendment to the Zoning Map, or any person interested in a proposed amendment to the text of this Code.
- 16-14.4 **Procedure.**
- a. Pre-application Conference.
- 1) Request. In any case where a Zoning Map amendment is requested pursuant to this Section 16-14, the applicant shall request a pre-application conference with the Village Administrator prior to filing his or her application.
 - 2) Required Information. Prior to scheduling a pre-application conference, the applicant shall provide required information to the Village Administrator, including, but not limited to, a brief and general description of the nature, location, and extent of the proposed Zoning Map amendment.
 - 3) Procedure. Upon receipt of all required information, the Village Administrator shall promptly schedule such conference and notify the applicant of the time and place of such conference and of the names and affiliations of other persons who have been invited to attend. The Village Administrator shall conduct such conference, and its purpose shall be to broadly acquaint all other parties with the proposals, views, and concerns of all other parties at a time when positions are still flexible and adjustment is still possible.

- b. Application. Applications for amendments shall be filed in accordance with the requirements of Section 16-1 of this Code; provided, however, that amendments proposed by the Board of Trustees, the Plan Commission, or the Zoning Board of Appeals shall not be subject to said Section 16-1 but shall be transmitted to the Village Administrator in such form as may seem appropriate to the initiating body.
- c. Public Hearing. A public hearing shall be set, noticed, and conducted by the Plan Commission in accordance with Section 16-3 of this Code.
- d. Action by Plan Commission. Within thirty-five (35) days after the conclusion of the public hearing, the Plan Commission shall transmit to the Board of Trustees its recommendation in the form specified by Section 15-2.4. The failure of the Plan Commission to act within such thirty-five (35) days, or such further time to which the applicant may agree, shall be deemed a recommendation for the approval of the proposed amendment as submitted.
- e. Action by Board of Trustees; Protest. Within sixty (60) days after the receipt of the recommendation of the Plan Commission, or its failure to act as above provided, the Board of Trustees shall either deny the application or, by ordinance duly adopted, adopt the proposed amendment, with or without modifications; provided, however that no amendment shall be granted within six (6) months after the effective date of this Code or of any comprehensive amendment to this Code unless such amendment is passed by a two-thirds vote of the Corporate Authorities then holding office; and provided further, however, that in the event a duly signed and acknowledged protest against a proposed amendment: (i) is filed with the Village Clerk and (ii) a copy is served on the applicant and the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment, before the adoption of such amendment by the owners of twenty percent (20%) or more of the frontage to be affected by the proposed amendment, or by the owners of twenty percent (20%) or more of the frontage immediately adjoining or across an alley therefrom, or by the owners of twenty percent (20%) or more of the frontage directly opposite the frontage to be affected, such amendment shall not be passed except by a two-thirds vote of all the Trustees then holding office.

The failure of the Board of Trustees to act within such sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying the application rendered on the day following such period.

16-14.5 **Standards for Amendments.** The wisdom of amending the text of this Code or the Zoning Map is a matter committed to the sound legislative discretion of the Board of Trustees and is not dictated by any set standard. However, in determining whether a proposed amendment should be granted or denied the Board of Trustees should be guided by the principle that its power to amend this Code is not an arbitrary one but one that may be exercised only when the public good demands or requires the amendment to be made. In considering whether that principle is satisfied in any particular case, the Board of Trustees should weigh, among other factors, the following factors:

- a. The consistency of the proposed amendment with the purposes of this Code.
- b. The existing uses and zoning classifications of properties in the vicinity of the subject property.
- c. The trend of development in the vicinity of the subject property, including changes, if any, in such trend since the subject property was placed in its present zoning classification.
- d. The extent to which the value of the subject property is diminished by its present zoning classification.
- e. The extent to which such diminution in value is offset by an increase in the public health, safety and welfare.
- f. The extent, if any, to which the use and enjoyment of adjacent properties would be adversely affected by the proposed amendment.
- g. The extent, if any, to which the value of adjacent properties would be adversely affected by the proposed amendment.
- h. The extent, if any, to which the future orderly development of adjacent properties would be adversely affected by the proposed amendment.
- i. The suitability of the subject property for uses permitted or specially permitted under its zoning classification.
- j. The availability of adequate ingress to and egress from the subject property and the extent to which traffic conditions in the immediate vicinity of the subject property would be affected by the proposed amendment.
- k. The availability of adequate utilities and essential public services to the subject property to accommodate the uses permitted or specially permitted under its present and proposed zoning classification.
- l. The length of time, if any, that the subject property has been vacant, considered in the context of the pace of development in the vicinity of the subject property.
- m. The community need for the proposed amendment and for the uses and development it would allow.