

Section 13
ADMINISTRATION

- 13.1 Zoning Administrator
- 13.2 Building Permits and Certificates of Occupancy
- 13.3 Planning and Zoning Commission
- 13.4 Commission Meetings and Hearings
- 13.5 Appeals and Stay of Proceedings
- 13.6 Variations and Standards for Variations
- 13.7 Special Uses and Standards for Special Uses
- 13.8 Text Amendments and Standards for Text Amendments
- 13.9 Re-zonings (Map Amendments) and Standards for Re-zonings
- 13.10 Conditions
- 13.11 Board of Trustees Action
- 13.12 Change of Zoning
- 13.13 Implementation of Variations/Special Uses
- 13.14 Revocation of Variations/Special Uses
- 13.15 Public Hearing Requirements
- 13.16 Written Protests
- 13.17 Rules of Procedure

13.1 **ZONING ADMINISTRATOR**: *Amended, 2017-24, 04-15, 02-36, 00-41, 98-35*

The Village Administrator, or his or her designee, is the Zoning Administrator (also called the Zoning Enforcement Officer) and shall have the following powers and duties:

1. Receive and process all applications and petitions for zoning matters pursuant to this Zoning Code.
2. Be responsible for the interpretation of the provisions and regulations of this Zoning Code.
3. Be responsible for administering and enforcing this Zoning Code, including conducting of inspections required by this Zoning Code or as are necessary to ensure compliance with the provisions of this Zoning Code.
4. Serve as a staff liaison to the Planning and Zoning Commission.
5. Publish annually an up-to-date copy of the Zoning Map as provided by Illinois Compiled Statutes.
6. Maintain for public inspection, during regular business hours, a copy of this Zoning Code together with the Zoning Map, along with all amendments thereto.
7. Maintain all minutes and records of the Planning and Zoning Commission, and documents, including but not limited to ordinances and permits that memorialize or authorize zoning actions taken by the Village.

8. Perform such other duties as are delegated to him or are provided for generally in this Zoning Code.

13.2 BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY: *Amended, 01-7*

13.2-1 Building Permits: A building permit for any building, structure, or addition thereto shall not be issued by the Building Commissioner unless the proposed work and use comply with this Zoning Code and all other ordinances of the Village, including, but not limited to Chapter 19, Building Code, of the Lakewood Municipal Code.

13.2-2 Certificates of Occupancy: No building or structure, or addition thereto, hereafter erected or structurally altered shall be occupied and used until a certificate of occupancy has been issued by the Village. Every application for a building permit shall be deemed to also be an application for a certificate of occupancy. The certificate of occupancy shall be issued only after construction is completed, the premises have been inspected, and the Building Commissioner finds that the building or structure or addition has been erected or structurally altered in conformance with the provisions of this Zoning Code and all other ordinances of the Village, including, but not limited to, Chapter 19, Building Code, of the Lakewood Municipal Code, and in accordance with the terms and conditions of the building permit. A Certificate of Compliance shall be deemed equivalent to a Certificate of Occupancy.

13.2-3 Continuance of Existing Uses: Nothing in this Section 13.2 shall prevent the continuance of the present occupancy or lawful use of any existing building or zoning lot, except as provided in Section 6 of this Zoning Code, and except as may be necessary for the safety of life and property. Certificates for the continued occupancy of legal non-conforming uses existing at the time this Zoning Code and subsequent amendments become effective shall be issued by the Building Commissioner upon request, and the certificate shall state the use is non-conforming and does not conform with the provisions of this Zoning Code.

13.3 PLANNING AND ZONING COMMISSION: *Amended, 2017-24, 04-15*

The Planning and Zoning Commission (also referred to as Commission in this Zoning Code) is vested with the following powers and duties:

1. To perform the powers and duties as prescribed by Chapter 7 of the Lakewood Municipal Code.
2. To transmit to the Board of Trustees, with every recommendation, a written finding of fact and to refer to any documents and exhibits containing plans and specifications relating to its recommendation, which documents, plans and specifications shall remain a part of the permanent record of the Commission. The finding of fact shall specify the reason or reasons for its recommendation. The recommendation, or the terms of any relief recommended, shall be incorporated into the finding of fact, and shall be specifically set forth in a conclusion of the finding.

3. The concurring vote of four members shall be necessary to reverse any order, requirement, decision, or determination of the Building Commissioner or Zoning Administrator or to decide in favor of the petitioner or applicant in considering any matter upon which the Commission is authorized to act.

13.4 COMMISSION MEETINGS AND HEARINGS: *Amended, 01-7, 00-41*

All meetings and hearings of the Commission shall be held at such times as the Commission and/or the Corporate Authorities may determine, and the schedule of such meetings and hearings shall be posted at Village Hall. The presence of four Commissioners shall be necessary for a quorum. The Chairman, or Acting Chairman, may administer oaths and compel the attendance of witnesses. The Commission shall have the authority to adopt procedural rules for the conduct of its meetings and hearings consistent with the provisions of this Chapter 17 and other codes and ordinances of the Village. The Commission shall keep minutes of its proceedings, keep record of its examinations and other official actions, prepare findings of fact, and record the individual votes upon every question. Such minutes shall be filed with the Village after each meeting or hearing, which shall be a public record.

13.5 APPEALS AND STAY OF PROCEEDINGS: *Amended, 2017-24, 05-05, 01-7*

An appeal to the Commission, as appropriate, may be taken from any order, requirement, decision or determination of the Building Commissioner relating to zoning matters set forth in this Zoning Code by any person, firm or corporation aggrieved thereby, or by any officer, department, board or commission of the Village of Lakewood. The appeal shall be taken within 45 days of the action complained of by filing a notice of appeal in duplicate, specifying the grounds thereof, in the office of the Village Clerk who shall transmit forthwith one copy to the Building Commissioner and one copy to the Chairman of the Commission. The Building Commissioner shall forthwith transmit to the Chairman of the Commission all papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from unless the Building Commissioner certifies to the Commission that, by reason of facts stated in the certification, a stay would cause imminent peril to life or property. In such case the proceedings shall not be stayed except by a restraining order issued by the Commission or a court of record after notice to the Building Commissioner and on due cause shown.

The Commission shall select a reasonable time and place for the hearing of the appeal, give due notice thereof to all interested parties and shall render a written decision on the appeal without unreasonable delay. Any person may appear at the hearing and present testimony in person or by a duly authorized agent or attorney.

13.6 VARIATIONS AND STANDARDS FOR VARIATIONS: *Amended, 2017-24, 01-7, 99-29*

- 13.6-1 Variations, Purpose and Intent: In order to accomplish the general purpose of this Code, consideration may be given to certain practical difficulties or hardships in carrying out the

strict letter of regulations of this Code. The purpose of a variation is to provide relief from difficulties and hardships arising from requirements including, but not limited to, bulk, setback, height, parking and loading, and other regulatory elements of this Code. The term “variation” as used in this Code does not include and is not applicable to map amendments (rezonings), text amendments, or special uses. The Commission may recommend to the Village Board variations of the regulations of this Code in harmony with their general purpose and intent only in the specific instances hereinafter set forth, where the Commission makes a finding of fact based on the standards hereinafter prescribed, when evidence in a specific case shows conclusively that literal enforcement of any provision of this Code would result in a practical difficulty or particular hardship because of unusual surroundings or condition of the property involved, or by reason of exceptional narrowness, shallowness or shape of the zoning lot, or because of unique topography, underground conditions or other unusual circumstances.

13.6-2 Standards for Variations: Before recommending any variation, the Commission shall first determine based upon the evidence presented to it in each specific case that:

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the zoning district in which it is located;
2. The plight of the owner is due to unique circumstances;
3. The variation, if granted, will not alter the essential character of the locality; and
4. The variation, if granted, will be in harmony with the general purpose and intent of this Code.

For the purpose of implementing the above rules, the Commission shall also, in making its determination whether there are practical difficulties or particular hardships, take into consideration the extent to which the following facts and conclusions favorable to the applicant have been established by the evidence and are justified:

1. The particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
2. The conditions upon which the petition for a variation is based are unique to the property for which the variation is sought, and would not be applicable, generally, to other property within the same zoning classification;
3. The purpose of the variation is not based exclusively upon a desire to increase the value of the property, the monetary gain to be realized from the property, or to alleviate financial difficulty experienced by the petitioner in the attempt to comply with the provisions of this Code;

4. The alleged difficulty or hardship is caused by the application of this Code and has not been created by any person presently having an interest in the property;
5. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;
6. The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fires, or endanger the public safety, or substantially diminish or impair property values in the neighborhood; and
7. The granting of the variation requested will not confer on the applicant any special privilege that is denied by this Code to other lands, structures, or buildings of the same zoning classification.

13.7 SPECIAL USES AND STANDARDS FOR SPECIAL USES: *Ord. 01-7*

See Section 15 of this Zoning Code.

13.8 TEXT AMENDMENTS AND STANDARDS FOR TEXT AMENDMENTS: *Amended, 05-05, 04-15, 01-7*

For the purposes of promoting the public health, safety, comfort and general welfare, the Village Board may, from time to time, upon recommendation of the Commission in the manner herein set forth, amend the regulations imposed and the zoning districts created by this Zoning Code. Before recommending any text amendment to this Code, the Commission shall make findings based upon the evidence presented to it in each specific case with respect to the following:

- A. That the proposed amendment is beneficial to the orderly development of the Village;
- B. That the proposed amendment will benefit the public health, safety, comfort and general welfare of the community;
- C. That the proposed amendment promotes the public interest and not solely the interest of the petitioner or applicant.

13.9 RE-ZONINGS (MAP AMENDMENTS) AND STANDARDS FOR RE-ZONINGS: *Ord. Amended, 2017-14, 01-7; 05-05, 04-15*

For the purposes of promoting the public health, safety, comfort and general welfare, and conserving the values of property throughout the Village, the Village Board may, from time to time, upon recommendation of the Commission in the manner herein set forth, amend the zoning classification of property (also known as a re-zoning or a map amendment), provided that in all amendatory ordinances adopted under the authority of this Section 13.9, due consideration shall be given to a)

existing conditions, b) the conservation of property values, c) the direction of property development and land use that is to the best advantage of the entire Village, and d) the uses to which property is devoted at the time of the adoption of any such amendatory ordinance. Before recommending any change in the zoning classification of a particular property, the Commission shall make findings based upon the evidence presented to it in each specific case with respect to the following:

1. That the proposed re-zoning is not detrimental to the orderly development of the Village;
2. That the proposed re-zoning will not be detrimental to or endanger the public health, safety, comfort or general welfare of the community;
3. That the request promotes the public interest and not solely the interest of the petitioner or applicant;
4. That the request is consistent with the existing uses of property within the general area of the property in question;
5. That the request is consistent with zoning classifications of property within the general area of the property in question;
6. That the property is not generally suitable for the uses permitted under the existing zoning classification;
7. That the trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the original zoning of the affected property was established supports the request;
8. That, if applicable, the length of time that the property in question has remained undeveloped under its current zoning is considered in the context of land development in the vicinity of the property in question;
9. That property values of the surrounding and adjacent property will not be substantially diminished or impaired; and
10. That the request is in harmony with the objectives of the Comprehensive Plan.

13.10 CONDITIONS: *Amended, 2017-24, 05-05, 04-15, 01-7, 99-29*

The Commission may recommend, and the Village Board in granting any variation or special use may impose such conditions or restrictions as may be necessary to comply with the standards established in this Code, to reduce or minimize possible detrimental effects of such a variation or special use upon other adjacent properties, and to better carry out the general intent of this Code.

13.11 BOARD OF TRUSTEES ACTION: Amended, 2017-24, 05-05, 04-15, 01-7, 98-35

No action on any specific petition, application or case shall be made by the Board of Trustees without a hearing by the Commission as required herein, nor without a report thereof having been made by the Commission to the Board of Trustees. Said report shall consist of the hearing minutes and a finding of fact.

Upon the report of the Commission, the Board of Trustees, without further public hearing, may adopt, modify or deny any proposed petition or application or may refer the petition or application back to the Commission for further consideration.

13.12 CHANGE OF ZONING: Amended, 2017-24, 05-05, 04-15, 01-7

Nothing herein contained shall be construed to give or grant to the Commission the power or authority to alter or change the Zoning Code or any use district made a part of the zoning map; such power and authority being reserved to the Village Board of Trustees, and the Commission shall not have any power or authority with respect to any alterations or change of the Zoning Code except to make recommendations to the Village Board of Trustees in such specific cases as may properly come before the Commission.

13.13 IMPLEMENTATION OF VARIATIONS/SPECIAL USES: Amended, 04-15, 01-7, 98-35

No order for a variation or special use permitting the erection or alteration of a building shall be valid for a period longer than six months, unless such use is established within such period, provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

13.14 REVOCATION OF VARIATIONS/SPECIAL USES: Amended, 05-05, 01-7, 98-35

Whenever any variation or special use granted under the terms of this Zoning Code has been discontinued or abandoned for a period of six consecutive months, or whenever there is evidence of a clear intent on the part of the owner to abandon a variation or special use, such variation or special use, after being discontinued or abandoned, shall be considered void and the owner shall submit a new application or petition pursuant to this Zoning Code.

13.15 PUBLIC HEARING REQUIREMENTS: Amended 2017-24, 12-08, 05-05, 04-15, 02-36, 01-7, 98-35

All hearings before the Commission shall require public notice. The Commission shall cause notice of a petition or application to be given in the following manner:

1. By publishing notice of such hearing in a newspaper of general circulation in the Village
2. By sending notice of the time and place of such hearing to the owners of all property adjoining and within 250 feet adjacent to the property in question, including the property

directly opposite and across a public street or alley. This notice shall be sent by certified mail, return receipt requested. For purposes of this subsection “owner” shall mean the person to whom the most recent statement of real property taxes was sent. Mailing of this notice shall be certified to the Commission.

3. By notifying such property owners, groups or organizations of the proposal in writing as the Village deems desirable.
4. The notices required in this Section 13.15 shall contain, at a minimum, the following: the time, date and location of said hearing; the common street address or addresses and the property index number (“PIN”) or numbers of all the parcels of the real property contained in the affected area for which the petition or application is requested; a brief statement describing the nature of the petition or application; the name(s) of the petitioner or applicant. Notice shall be made not less than 15 days prior to the hearing or more than 30 days prior to the hearing.

13.16 WRITTEN PROTESTS: *Amended, 01-7, 98-35*

In the event of written protest against the petition or application, signed and acknowledged by the owners of 20 per cent of the frontage proposed to be altered, or by the owners of 20 percent of the frontage immediately adjoining or across the alley or rear line therefrom, or by the owners of 20 per cent of the frontage directly opposite the frontage proposed to be altered as to such regulations or zoning district, and filed with the Village Clerk, such petition or application shall not be approved except by the favorable vote of two-thirds of all trustees then holding office.

13.17 RULES OF PROCEDURE: *Ord. 99-29, Amended, 2017-24, 05-05, 04-15, 03-26. 02-36, 01-7*

13.17-1 Hearing Process:

13.17-1.1 Evidentiary Standards: The Commission shall not be bound by the strict rules of evidence as applied in Illinois courts pertaining to civil actions. The Commission shall receive evidence which is material, relevant and would be relied upon by reasonably prudent persons in the conduct of serious affairs. When the admissibility of evidence depends upon an arguable interpretation of substantive law, the Chairperson shall admit such evidence.

13.18-1.2 Public Hearing Parameters: All parameters for public hearings, including but not limited to notice requirements, shall comply with this Zoning Code unless altered by the provisions listed in this Section 13.17-1:

- a) Within a reasonable time from the date that the complete petition is filed, the date, time and location of the hearing on the petition shall be determined by the Village in consultation with the Commission, but the hearing shall begin no later than 90 days following said filing.

- b) The Village shall reserve the right to engage the services of one or more court reporters to provide transcripts of all sessions of the hearing, which transcripts shall be deemed to constitute the minutes of the hearing. Any and all costs associated with such engagements, including the necessary copying of transcripts required for internal use by the Village and the Commission, shall be at the petitioner's expense.
- c) If, in the Village's opinion, Village facilities are not sufficient to accommodate the number of persons expected to attend the hearing, the Village may arrange for the hearing to be conducted at another site. In such a circumstance, the Village is authorized to rent appropriate facilities and equipment, including but not limited to an adequately-sized meeting space such as an auditorium, as well as a sound system, chairs, tables and associated services such as custodians and set-up personnel as may be necessary to conduct a proper hearing. Any and all costs associated with such arrangements shall be at the petitioner's expense.
- d) The Village Attorney or his designee shall serve as legal advisor to the Commission and the Administrator shall serve as staff advisor to the Commission.
- e) All testimony at the hearing shall be under oath or affirmation. Any person appearing at the hearing shall have the right to give testimony and comment on the petition. Any person testifying shall be required to state their name and address and who they are representing.
- f) The opportunity for any person appearing at the hearing to cross-examine any witness may be limited by the Commission. The Commission reserves the right to limit testimony, questions, comments and cross-examination to prevent argumentative comments; prohibit personal attacks on other parties; maintain order and decorum during the hearing process; and prevent irrelevant, incompetent and unnecessarily cumulative or repetitive materials in the record. The Commission members reserve the right at all times to ask questions of or reply to any party testifying in order to clarify an issue, statement or fact. Depending upon the complexity of the matter before the Commission, public notice of the hearing may require that any person participating in the hearing, who wishes to submit testimony and other evidence, or to examine the petitioner's testimony and other evidence, must notify the Commission, in writing, not more than seven days before the public hearing.
- g) Any person shall have the right to be represented by a licensed attorney-at-law at the hearing. Such attorneys shall have the right of reasonable cross-examination. The scope of cross-examination shall be determined by the Commission.

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

13.17-1.3 Order of Business: The order of presentation of testimony and evidence at a public hearing shall generally be as follows, but may be modified as determined appropriate by the Commission:

- a) Identification of petitioner.
- b) Submittal of proof of notice.
- c) Testimony and other evidence by petitioner.
- d) Commission examination of petitioner's witnesses and other evidence.
- e) Examination of petitioner's witnesses and other evidence by any person appearing at the hearing. Examination by persons appearing at the hearing

shall be limited to the scope of the testimony presented on direct questioning by the petitioner and the Commission.

f) Re-examination by the petitioner.

13.17-1.4 Decision: At the conclusion of the evidentiary portion of the public hearing, the Commission may, among other actions, move to deliberate its decision on the evidence presented, or continue the hearing to a date, time and location certain. A written decision shall be prepared which shall include findings of fact, the Commission's recommendation or decision based upon the record and pursuant to Section 13.17-1 herein. The written decision of the Board of Trustees may adopt the Commission's findings. However, if the decision of the Board of Trustees is based upon facts different from the Commission, such findings of fact must be made a part of the record.

13.17-1.5 Additional Evidence or Testimony: Evidence or testimony may only be presented at the public hearing. If the Village requires additional evidence, or if any person desires to present additional evidence after the close of the public hearing, the public hearing shall be re-opened and conducted in accordance with this Section 13.17-1.