

## CHAPTER 9

### ADMINISTRATION AND ENFORCEMENT

#### 9-9-1: Intent

It is the intent and purpose of this Chapter to identify certain officers and agencies which will be required to administer and enforce this Title; to identify and define other public agencies, officers and officials with whom working relationships shall be required; to define the duties and responsibilities of said officers, officials and agencies; to set forth a procedural system for enforcing and amending this Title; to establish guidelines for the interpretation of this Title.

#### 9-9-2: Organization

9-9-2-1: Vested Powers: The administration of this Title is hereby vested in the Zoning Enforcement Officer, the Zoning Board of Appeals, and the Village Board of the Village of Holiday Hills, Illinois.

9-9-2-2: Zoning Enforcement Officer: The office of Zoning Enforcement Officer is hereby established. In the absence of a Zoning Enforcement Officer, the Village President shall act in this capacity. His duties shall be to:

1. Issue all certificates of occupancy and make and maintain records thereof.
2. Issue and renew, where applicable, all temporary use permits in consultation with other interested official bodies, and make and maintain records thereof.
3. Issue and certify all Special Use Permits granted by the Village Board under the provisions of this Title and make and maintain records thereof.
4. Issue all sign permits in accordance with this Title, and make and maintain records thereof.
5. Conduct such inspections and research as necessary to ensure compliance with all of the provisions of this Title, and where there are violations initiate action to secure compliance. For purposes of making inspections, the Zoning Enforcement Officer and his duly authorized representatives shall have the right to enter upon any property at reasonable times.
6. Keep the Zoning Map and text up to date.
7. Provide zoning information upon request.

8. Perform such other duties as are assigned by this Title.
9. Issue all Building Permits.
10. Interpret the provisions of this Title for conformance; such interpretation to be appealable to the Zoning Board of Appeals.

9-9-2-3: Zoning Board of Appeals: The Village of Holiday Hills Zoning Board of Appeals heretofore is hereby established and shall be referred to as the “Zoning Board of Appeals”(ZBA).

9-9-2-3-1: It shall consist of seven (7) members, appointed by the Village President with the advice and consent of the Village Board, to serve respectively for the following terms: One for one year, one for 2 years, one for 3 years, one for 4 years, one for 5 years, one for 6 years, and one for 7 years, the successor to each member so appointed to serve for a term of 5 years.

9-9-2-3-2: The Chairman of the Zoning Board of Appeals shall be appointed by the Village President from the members of the Zoning Board of Appeals with the advice and consent of the members of the Village Board. The term of office of the Zoning Board of Appeals Chairman shall be two years.

9-9-2-3-3: All meetings of the Zoning Board of Appeals shall be at the call of the Chairman, or in his/her absence the Acting Chairman, and at such times as the Board may determine. All meetings of the Zoning Board of Appeals shall be held in accordance with the Open Meetings Act.

9-9-2-3-4: The Zoning Board of Appeals shall have the authority to compel the attendance of witnesses at hearings and to administer oaths, and in furtherance of its duties shall:

1. Maintain minutes of its proceedings and any written recommendations from any other officials or governmental bodies; show the vote of each member by name, upon every question, or if absent or failing to vote, indicate such fact; and keep records of its examinations and other official actions.
2. File immediately in the office of the Zoning Board of Appeals all rules and regulations and amendment or repeal thereof, and every order, requirement, decision, or determination of said Board and these shall become public records.

3. Establish rules of procedures, and such other rules as it deems necessary for conducting hearings, not in conflict with the statutes of the State of Illinois, the Building Code of the Village of Holiday Hills (Title 7 of this Code), or this Title and make said procedures available to the public.
4. Hear appeals from the decisions of the Zoning Enforcement Officer relating to this Ordinance, and appeals from the decisions of the Building Inspector relative to the Building Code of the Village of Holiday Hills (Title 7 of this Code).
5. Determine whether the necessary documents for conducting hearings for amendments, variations of special uses have been filed.
6. Hear and review petitions for variations from the provisions of this Title with respect to particular cases involving undue hardships, make findings regarding the sufficiency of the supporting documents filed relative to such variation and make recommendations to the Village Board within 90 days after the close of the hearing.
7. Hear and review applications for Special Uses make findings regarding the sufficiency of the supporting documents filed relative to such special use and make recommendations to the Village Board within 90 days after the close of the hearing.
8. Hear and review requests for amendments to the text of the Zoning Ordinance (Title 9 of this Code) or to the Official Zoning Map, make findings regarding the sufficiency of the supporting documents filed relative to such amendment and make recommendations to the Village Board within 90 days after the close of the hearing.

9-9-2-3-5: All documents filed with the Zoning Board of Appeals shall be available for public inspection and copying in accordance with the Illinois Freedom of Information Act as now or hereafter amended.

9-9-3: Interpretation of this Ordinance

9-9-3-1: General Provisions: The Zoning Enforcement Officer shall interpret this Title strictly and in accordance with standards set forth below. His decision shall be subject to appeal as provided in Section 9-9-2-3 of this Chapter, entitled “Zoning Board of Appeals”.

9-9-3-2: Standards: Whenever any provision of this Title overlaps, contradicts or covers the same subject matter as any other provision of this Title or any other ordinance, regulation, statute or rule, the more restrictive or higher standard shall control.

9-9-3-3: Minimum Requirements: In the interpretation and application of this Title, the provisions shall be held to be minimum requirements for the promotion and protection of the public health, safety, morals, comfort and welfare.

9-9-4: Procedures

9-9-4-1: Public Hearings and Notice: A hearing shall be held on any proposed amendment, variation, or special use. If the owner of any property affected by such proposed amendments, variations or special uses so requests. All requests for hearings in the nature of an appeal must be filed with the Village Clerk and served upon the petitioner and the petitioner’s attorney at least five (5) days before the scheduled date of the hearing.

9-9-4-2: Notice of Public Hearing – Publication Of: Notice of the time and place of any public hearing required by this Title for variation, amendments and special uses shall be published not less than fifteen (15) days and not more than thirty (30) days before such hearing in a newspaper of general circulation in the Village.

9-9-4-3: Published Notice of Public Hearing – Contents Required

The notice shall contain:

1. The particular location of the real estate for which the variation, amendment or special use is requested by legal description and street address, and if no street address then by locating such real estate with reference to any well-known landmark, highway, road, thoroughfare or intersection;
2. Whether or not the petitioner or applicant is acting for himself or in the capacity of agent, alter ego, or representative of a principal, and stating the name and address of the actual and true principal;

3. Whether petitioner or applicant is a corporation, and if a corporation, the correct names and addresses of all officers and directors, and of all stockholders and shareholders owning any interest in excess of twenty percent (20%) of all outstanding stock of such corporation;
4. Whether the petitioner or applicant or his principal, if other than applicant, is a business or entity doing business under an assumed name, and if so, the name and residence of all true and actual owners of such business or entity;
5. Whether the petitioner or applicant is a partnership, joint venture, syndicate or an unincorporated voluntary association, and if so, the names and addresses of all partners, joint ventures, syndicate members or members of the unincorporated voluntary association;
6. A statement of the present zoning on the parcel in question;
7. A brief statement of the proposed amendment, variation, or special use; and
8. The time, date and location of all hearings.

#### 9-9-5: Application Procedures

9-9-5-1: General Provisions and Notices: If application is made by the trustee or beneficiary of any land trust for any zoning amendment, variation or special use, the application and notice, shall identify each beneficiary of such land trust by name and address and define his interest therein. All such applications shall be verified by the applicant in the applicant's capacity as trustee or by the beneficiary(s) as a beneficial owner(s) of an interest in such land trust.

9-9-5-2: Application for any zoning amendment, special use or variation shall be filed with the Zoning Board of Appeals using forms available from the Village Clerk. A hearing date for an amendment, variation or special use will be set by the Zoning Board of appeals when all of the filing requirements of this Title have been met. The Zoning Board of Appeals will not consider the sufficiency of the documents application, evidence etc. filed with it until after a public hearing has been held and all parties have been given an opportunity to address such application, evidence, documents, etc. After said hearing, the Zoning Board of Appeals shall make a finding as to the sufficiency of the application, evidence, documents, etc. and shall report this finding in its recommendation to the Village Board.

1. Application: Applications will contain at a minimum, the nature of the request, a legal description, permanent parcel number and common description of the property, a statement of the present zoning of the subject property and surrounding properties and a verification by the owners or their authorized agent attesting to the truth and correctness of all facts, statements and information presented. In addition, applications for zoning amendments, variations, and special uses shall contain a survey of the property by a surveyor registered with the State of Illinois.
2. Approval or Denial: After a hearing and recommendation by the Zoning Board of Appeals, the Village Board shall either approve or disapprove the application, and when approved shall follow the steps listed below:
  - A. As soon as possible after the application is decided, the Village Board shall notify the applicant of the decision in writing.
  - B. The ordinance providing for the granting of the relief sought shall be sent to the Zoning Enforcement Officer to be placed on file.

9-9-5-3: If the Village Board denies the application, the Village Clerk shall so notify the applicant in writing. This shall constitute notice of the denial.

9-9-5-4: Special Use Permits:

1. Application: The application for a Special Use Permit shall meet both the general requirements and the specific requirements as set forth in Chapter 6 of this Title.
2. Certification or Denial: After a hearing by the Zoning Board of Appeals the Village Board shall either approve or disapprove the application, and when approved, shall establish the specific conditions under which the application is approved.
3. Vote by Village Board: No Special Use Permit shall be granted by the Village Board except by a vote of four (4) members of the Village Board.

9-9-5-5: Variations: Variations may be granted only when in conformity with “Standards for Variations” established in Chapter 8 of this Title. Upon receiving the recommendation of the Zoning Board of Appeals, the Village Board shall either approve or disapprove the application, notifying the petitioner to that effect in writing. Any proposed variation which fails to receive the approval of the Zoning Board of Appeals shall not be passed except by the favorable vote of four (4) members of the Village Board. No variation that has been granted shall be valid for a period longer than twelve (12) months from the date of granting or unless a building permit is obtained within that period and the erection or alteration of a building is started or the use is commenced unless specified otherwise in the variation ordinance.

9-9-5-6: Amendments to Applications:

Amendments to any application for an amendment, variation or special use shall only be allowed upon approval of a Petition to Amend. The Petition to Amend shall be filed with and decided by the Zoning Board of Appeals if the hearing on the application has not yet been conducted.

If the hearing on the application has been conducted, the Petition to Amend the Application shall be filed with the Village Clerk and decided by the Village Board.

9-9-5-7: Amendments and Special Uses

This Title may be amended from time to time as conditions warrant, subject to the “Standards for Amendments and Special Uses” listed in this Chapter. Amendments to rezone any property shall be instituted by the owner of the property and special uses, except that an appropriate governmental agency may institute any amendment to the text of this Title and to the Official Zoning Map.

1. Official Reviews and Reports: The Zoning Board of Appeals shall consider and make recommendations on proposed zoning amendments and special uses. The following factors shall be considered as a minimum by the Zoning Board of Appeals when a zoning map or text amendment or special use is proposed.
  - A. The testimony at the hearing;
  - B. A Soil and Water Conservation District Natural Resources report;
  - C. The McHenry County Land Use Plan and the Official Comprehensive Plan of the Village;
  - D. Existing zoning of the parcel in question and the area within a one and one-half (1 1/2) mile radius of the parcel in question including a site inspection of the parcel in question prior to the Zoning Board of Appeals’ hearing provided the written consent of the petitioner has been given;
  - E. Location of the parcel in question;
  - F. Size of the parcel in question;
  - G. Natural amenities and resources of the parcel in question;

- H. All other resources deemed relevant, and presented at the hearing for the proposed zoning amendment or special use, by the Zoning Board of Appeals, including but not limited to: traffic impact study, school capacity and school transportation capacity study, and availability of police, fire and other related protection services;
- I. “Standards for Amendments and Special Uses” listed in this Chapter;

9-9-5-8 Standards for Amendments and Special Uses: A proposed amendment or special use shall be considered on its own merits. the applicant shall present clear and convincing evidence to establish the following criteria:

- A. The proposed amendment or special use shall be consistent with the intent of this Title, subsequent amendments thereto, and the various provisions contained therein;
- B. The proposed amendment or special use shall not be detrimental to the orderly development of the Village;
- C. The proposed amendment shall not be detrimental to or endanger the public health, safety, morals or general welfare of the Village.
- D. Map Amendments - In addition to the above conditions, the following criteria shall be met for all map changes:
  - (1) Every use permitted under the new classification must be compatible with the uses already developed in the vicinity;
  - (2) Adequate facilities to serve the public health, safety, morals or general welfare of the community must be capable of being provided prior to the development of the uses which would be permitted on the property if it were reclassified.

9-9-5-9: Approval or Denial: After hearing the proposed amendment(s) or special uses, the Zoning Board of Appeals shall make a recommendation to the Village Board. No amendment shall be approved except by an affirmative vote of four (4) members of the Village Board.

9-9-6: Fees:

Fees for all required permits described in this Title, and fees required for the filing of appeals and petitions before the Zoning Board of Appeals shall be as established by



resolution or ordinance by the Village Board from time to time. There shall be no fees in the case of applications filed in the public interest by the Village Board or the Zoning Board of Appeals, or any other Village department. All fees shall be collected by the Zoning Board of Appeals, except building fees. No fees described herein shall be refundable.

9-9-7: Penalties:

- 9-9-7-1: Any person, firm or corporation who shall be found guilty by a court of competent jurisdiction of violating any provision of this Title or of failing to comply or any approval of condition of approval, issued under the provisions of this Title shall be guilty of a petty offense, punishable by a fine of not less than Fifty Dollars (\$50.00) and of not more than Five Hundred Dollars (\$500.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
- 9-9-7-2: Any person, firm or corporation who shall be found guilty by a court of competent jurisdiction of violating a provision of this Title or of failing to comply with any requirement thereof, or of violating any permit, any approval, or any directive under the provisions of this Title shall, in addition to the fines provided, be obligated to reimburse the Village for its attorneys' fees, Court costs, court reporter costs, and expert witness fees, and all other out-of-pocket costs incurred by the Village in the prosecution of the said violation or violations.
- 9-9-7-3: The owner or tenant of any building, structure, premises, or part thereof, who commits, participates in, assists in, or maintains such violations may be found guilty of a separate offense and subject to the above penalties.
- 9-9-7-4: The Village may also take other lawful action as is necessary to abate, prevent or remedy any violation.
- 9-9-7-5: In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Title or of any ordinance, resolution or other regulation made under authority conferred thereby, the proper authorities of the Village, or any person, the value or use of whose property is or may be affected by such violation, in addition to other remedies, may institute any appropriate action or proceedings in the circuit court to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.