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# ZONING ADMINISTRATION AND ENFORCEMENT

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## ARTICLE XI

### PART I -- ADMINISTRATIVE OFFICIALS AND BODIES

#### 11-101 VILLAGE MANAGER

11-101 A. General Powers. The Village Manager shall be charged with the administration and enforcement of this Code. In addition to the jurisdiction, authority and duties conferred on the Village Manager by other provisions of State statutes and Village codes and ordinances, the Village Manager shall have all powers necessary to such administration and enforcement, and shall, in particular, have the jurisdiction, authority and duties hereinafter set forth.

11-101 B. Rules; Regulations; Application Forms. The Village Manager shall, consistent with the express standards, purposes and intent of this Code, promulgate, adopt and issue such procedural rules, regulations and forms as are in the Manager's opinion necessary to the effective administration and enforcement of the provisions of this Code.

11-101 C. Staff Assistance to the Zoning Board of Appeals and Plan Commission. The Village Manager shall make staff and consulting assistance available to the Zoning Board of Appeals and the Plan Commission, and the Manager, or his delegate, shall in that capacity:

1. Attend the meetings of each such body;
2. Inform each such body of all facts and information at the Manager's disposal with respect to any matter brought before such body;
3. Assist each such body by performing research and making recommendations on matters brought before each such body; and
4. Perform such other duties as may be assigned to the Manager by this Code and by the direction of the Village Board.

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11-101 D. Records. The Village Manager shall, subject to Village record retention policies, maintain:

1. Permanent and current records of this Code, including all maps; amendments; special permits; planned development and site plan approvals and denials; interpretations; and decisions rendered by the Zoning Board of Appeals, the Plan Commission, the Village Attorney and the Village Manager, together with relevant background files and materials together with the final disposition of the Village Board;
2. A current file of all Certificates of Zoning Compliance, all Certificates of Occupancy and notices of violations, terminations, discontinuance or removal, issued by or entrusted to the Manager's office, for such times necessary to ensure continuous compliance with the provisions of this Code; and
3. A current file of all nonconforming uses and signs in the Village, by location and type of use.

11-101 E. Zoning Text; Zoning Map. The Village Manager shall prepare and have available for public sale on or before March 31 of each year:

1. The compiled text of this Code in book or pamphlet form, including all amendments thereto through the preceding December 31; and
2. The official Zoning Map, showing the zoning districts, divisions and classifications in effect on the preceding December 31.

The Manager shall, at all other times, maintain, and have available for reproduction, at least one up-to-date copy of both the Zoning Code text and the Zoning Map, showing all amendments through the most recent meeting of the Board of Trustees for which official minutes have been approved.

11-101 F. Applications: Receipt, Processing, Referral to Interested Parties and Agencies. The Village Manager shall receive all applications required to be filed pursuant to this Code. Upon receipt of any such application, the Manager shall see to its expeditious processing, including its prompt referral to and retrieval from each official department, board or commission of the Village, or other government, with any interest or duty with respect to such application. Unless otherwise provided, the Village Manager may waive any application requirements that require the submission of supporting information where the applicant demonstrates to the Village Manager that the information required is not relevant to the application submitted.

11-101 G. Investigation of Applications. Whenever the Plan Commission, the Zoning Board of Appeals or the Board of Trustees shall, by general rule or specific direction, so request, the

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Village Manager shall conduct or cause to be conducted such surveys, investigations and field studies, and shall prepare or cause to be prepared such reports, maps, photographs, charts and exhibits, as shall be necessary and appropriate to the processing of any application filed pursuant to this Code.

11-101 H. Zoning Certificates. Pursuant to the provisions of Sections 11-401 and 11-402 of this Article, the Village Manager shall review all applications for Certificates of Zoning Compliance and Certificates of Occupancy and approve or disapprove such applications and issue or refuse to issue such certificates based on compliance or noncompliance with the provisions of this Code.

11-101 I. Interpretations. Pursuant to the provisions of Section 11-501 of this Article, the Village Manager shall issue his written interpretation of the meaning and applicability of specific provisions of this Code. Any interpretation of this Code that may be rendered by the Zoning Board of Appeals or the Village Manager shall be kept on file with the Village Manager and shall be a public record of the Village open to inspection by interested parties at reasonable times and upon reasonable notice.

11-101 J. Approval of Site Plans. Pursuant to the provisions of Section 11-604 of this Article, the Village Manager shall have authority to review and approve or deny applications for site plan approval in those cases specified in Paragraph 11-604 C(1).

11-101 K. Planned Development and Site Plan Modifications. Pursuant to the provisions of Paragraph 11-603 K(1) and Subsection 11-604 I of this Article, the Village Manager shall have authority to permit adjustments to final plans for planned developments and to site plans.

11-101 L. Extensions of Time.

1. The Village Manager may, upon written request, for good cause shown and without any notice or hearing, grant extensions of any time limit imposed on an applicant or permittee by this Code unless an ordinance or resolution shall expressly provide otherwise. The total period of time granted by such extension or extensions shall not exceed the length of the original period or 90 days, whichever is less. The Village Manager shall inform the Village Board of all extensions granted pursuant to this Subsection.
2. The Village Board may, upon written request, for good cause shown, and without any notice or hearing, grant extensions of any time limit imposed on an applicant or permittee by this Code provided an ordinance or resolution, as appropriate, is duly adopted by a two-thirds vote of the Board of Trustees. The total period of time granted by such extension or extensions shall be specifically stated in the ordinance or resolution.

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11-101 M. Inspection and Enforcement. In furtherance of the enforcement of this Code, the Village Manager shall undertake such regular and continuing programs of inspection of work approved and under way and of existing structures and uses as may be feasible and proper; shall undertake such additional inspections as may be necessary to the performance of his duties hereunder; shall receive from any person complaints alleging, with particularity, a violation of this Code; and when appropriate shall cause such investigations and inspections as may be warranted by such complaints to be made.

Upon finding the existence of any violation of this Code, the Village Manager shall take or direct all actions necessary or appropriate to punish and abate such violation.

11-101 N. Reports. The Village Manager shall, as from time to time appropriate, prepare and submit a report to the Board of Trustees, the Zoning Board of Appeals and the Plan Commission concerning the administration of the land use and development regulations of the Village, setting forth such information and statistical data as may be of interest and value in advancing and furthering the goals and purposes of such regulations and setting forth the Manager's recommendations for the improvement of such regulations and their administration.

## **11-102 ZONING BOARD OF APPEALS**

11-102 A. Established. The Zoning Board of Appeals established by Chapter 2 of the Northbrook Municipal Code is the Zoning Board of Appeals referred to in this Code. The provisions of this Code with respect to such body shall be deemed supplementary to the provisions of Chapter 2, Article VI of the Northbrook Municipal Code. Reference should be made to said Chapter 2, Article VI for a complete description of the membership, term of office and rules of procedure of the Zoning Board of Appeals.

11-102 B. Necessary Vote. The concurring vote of at least four members of the Board of Appeals shall be necessary on any motion to reverse any order, requirement, decision or determination appealed to it; to decide in favor of the applicant any application made; or to effect any variation from the provisions of this Code. Any lesser vote on any such motion, even if a majority of those voting, shall be considered a final decision denying the appeal, application or variation.

11-102 C. Record and Decisions. The transcript of testimony, if any; the minutes of the Staff Secretary; all applications, requests, exhibits and papers filed in any proceeding before the Zoning Board of Appeals; and the decision of the Board shall constitute the record. The Board may rely on the personal knowledge of its members, on its inspections of the property and on any reports available to it; provided, however, that the Board shall make the particular knowledge, inspection or report a matter of record at the public hearing and afford every party reasonable time to respond to it.

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Every decision of the Zoning Board of Appeals shall be by written resolution which shall include findings of fact; shall refer to all the evidence in the record and to the exhibits, plans or specifications upon which such decision is based; shall specify the reason or reasons for such decision; shall contain a conclusion or statement separate from the findings of fact setting forth the specific relief granted or denying relief; and shall expressly set forth any limitations or conditions imposed on any relief granted or work or use authorized.

The Zoning Board of Appeals shall take no final or binding vote on a decision unless it shall first have before it the written resolution herein required; provided, however, that where special circumstances warrant it, the Board may take final action prior to the preparation of such resolution but in such event it shall, before taking such action, first state its findings and conclusions as above required at a meeting open to the public and shall, in addition, state the special circumstances.

In any case where this Code provides that the failure of the Zoning Board of Appeals to act within a fixed period shall be deemed to be a denial of an application, such failure shall, notwithstanding the absence of required findings and conclusions, be considered to be a decision of the Board rendered on the day following the expiration of such fixed period.

11-102 D. Appeals. An appeal from any final decision of the Zoning Board of Appeals may be taken in the manner provided in Article III of the Illinois Code of Civil Procedure pertaining to Administrative Review.

11-102 E. Jurisdiction and Authority. The Zoning Board of Appeals shall have the following jurisdiction and authority:

1. Subject to the provisions of Section 11-502 of this Article, to hear and decide appeals from, and to review orders, decisions or determinations made by the Village Manager and to that end shall have the powers of the Village Manager with respect to such order, decision or determination.
2. Subject to the provisions of Section 11-503 of this Article, to grant or deny variations from the requirements of this Code.
3. Subject to the provisions of Section 11-504 of this Article, to grant or deny variations from the Flood Hazard Overlay District regulations of this Code.
4. Subject to the provisions of Section 11-505 of this Article, to grant or deny requests for exceptions from the requirements of this Code.
5. Subject to the provisions of Section 11-601 of this Article, to initiate changes and amendments to this Code.

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## 11-103 PLAN COMMISSION

11-103 A. Established. The Plan Commission established by Chapter 2 of the Northbrook Municipal Code is the Plan Commission referred to in this Code. The provisions of this Code with respect to such body shall be deemed supplementary to the provisions of said Chapter 2, Article VI of the Northbrook Municipal Code. Reference should be made to said Chapter 2, Article VI for a complete description of the membership, term of office, rules of procedure and powers and duties of the Plan Commission.

11-103 B. Necessary Vote. The concurring vote of at least a majority of the currently appointed Commissioners shall be necessary to adopt any motion to recommend approval of any matter or application. Any lesser vote on any such motion, even if a majority of those voting, shall be considered a final decision to recommend denial of such matter or application.

11-103 C. Record and Decisions. The transcript of testimony, if any; the minutes of the Staff Secretary; all applications, requests, exhibits and papers filed in any proceeding before the Plan Commission; and the decision and report, or reports, of the Commission shall constitute the record.

Every recommendation or decision of the Plan Commission upon an application filed pursuant to this Code shall be by written resolution which shall include findings of fact; shall refer to all the evidence in the record and to the exhibits, plans or specifications, upon which such recommendation or decision is based; shall specify the reason or reasons for such recommendation or decision; and shall contain a conclusion or statement separate from the findings of fact setting forth the recommendation or decision of the Commission. Every resolution shall expressly set forth any limitations or conditions recommended or imposed by the Commission.

In reaching its recommendation or decision on any such application, the Plan Commission may rely on the personal knowledge of its members, on its inspections of the property and on any reports available to it; provided, however, that the Commission shall make the particular knowledge, inspection or report a matter of record at the public hearing and afford every party reasonable time to respond to it.

The Plan Commission shall take no final or binding vote on any recommendation or decision pertaining to an application pending before it unless it shall first have before it the written resolution herein required; provided, however, that where special circumstances warrant it, the Plan Commission may take final action on any such application prior to the preparation of such resolution but in such event it shall, before taking such action, first state its findings and conclusions as above required at a meeting open to the public and shall, in addition, state the special circumstances warranting such action.

In any case where this Code provides that the failure of the Plan Commission to act within a fixed period shall be deemed a recommendation for grant or denial of an application, such failure shall, notwithstanding absence of required findings and conclusions, be considered to be a decision of the Commission rendered on the day following the expiration of such fixed period.

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As to other matters brought before the Plan Commission, the Commission shall prepare such report as it shall deem appropriate to the subject matter.

11-103 D. Jurisdiction and Authority. In addition to the jurisdiction conferred on it by Chapter 2 of the Northbrook Municipal Code, the Plan Commission shall have the following jurisdiction and authority:

1. Subject to the provisions of Part II of this Article and Chapter 2 of the Northbrook Municipal Code, to prepare and recommend a Comprehensive Plan, including an Official Map, to the Board of Trustees, which, upon its adoption by the Board of Trustees, shall be known as the "Official Comprehensive Plan" of the Village of Northbrook.
2. Subject to the provisions of Part II of this Article and Chapter 2 of the Northbrook Municipal Code, to review, prepare and recommend to the Board of Trustees changes in and amendments to the Official Comprehensive Plan, including the Official Map.
3. Subject to the provisions of Section 11-503 of this Article, to hear, review and offer its recommendations to the Board of Trustees on applications for variations requested pursuant to Paragraph 11-503 D4 of this Article.
4. Subject to the provisions of Section 11-504 of this Article, to hear, review and offer its recommendations to the Board of Trustees on applications for variations requested pursuant to Paragraph 11-504 D4 of this Article.
5. Subject to the provisions of Section 11-601 of this Article, to initiate, hear, review and offer its recommendations to the Board of Trustees on applications for amendment of this Code.
6. Subject to the provisions of Section 11-602 of this Article, to hear, review and offer its recommendations to the Board of Trustees on applications for special permits.
7. Subject to the provisions of Section 11-603 of this Article, to hear, review and offer its recommendations to the Board of Trustees on applications for planned development approval.
8. Subject to the provisions of Section 11-604 of this Article, to hear, review and offer its recommendations to the Board of Trustees on applications for site plan approval in those cases specified in Paragraph 11-604 E2.
9. To aid and assist the Board of Trustees and the departments of the Village in implementing general plans and in planning, developing and completing specific projects.
10. To review and report on any matters referred to it by the Board of Trustees or the Village Manager.

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## **PART II -- PLANNING DOCUMENTS AND PROCEDURES**

### **11-201 OFFICIAL COMPREHENSIVE PLAN**

11-201 A. Authority. The Plan Commission shall have authority to prepare and recommend to the Board of Trustees a Comprehensive Plan of the Village and the unincorporated areas surrounding the Village and from time to time to prepare and recommend amendments thereto, any or all of which the Board of Trustees may adopt as the "Official Comprehensive Plan of the Village of Northbrook," all in accordance with the procedures set out in this Section.

11-201 B. Definition. The "Official Comprehensive Plan" shall be defined as a compilation of policy statements; goals; standards; maps; recommended planning, regulatory, fiscal and public works programs; together with pertinent data relative to the past, present and future trends of the Village with respect to its population, housing, economic, social and environmental development patterns; its land, water and natural resources and use; its transportation facilities, public facilities and utilities; and any other matter relative to the present and future patterns of life within the Village or within the unincorporated areas lying within one and one-half miles of its boundaries as they may from time to time exist, prepared and recommended by the Village Plan Commission with the advice and assistance of the Village Manager and the Manager's staff and adopted by the Village Board of Trustees by ordinance duly enacted, together with such amendments thereto as may be adopted from time to time.

Said term shall also refer to any internally consistent and complete portion of such a compilation relating to any one or more of the aforesaid subjects or to any specific portion of the aforesaid geographical area.

As of the effective date of this Code, said term shall be understood to refer to the following documents:

1. Northbrook Comprehensive Plan - Phase One - Existing Conditions and Interim Land Use Plan, as adopted by Resolution No. 82-R-93 on October 26, 1982 and as thereafter amended by Resolution No. 83-R-29 on April 26, 1983.
2. Recommendations for Revision of the 1950 Major Street Plan, Northbrook, Illinois, as adopted by Ordinance No. 64-29 on October 23, 1964.
3. Official Jurisdictional Map, as adopted by Ordinance No. 65-54 on November 9, 1965.
4. Northbrook Subdivision Ordinance, as adopted by Ordinance No. 64-28 on October 13, 1964 and as thereafter from time to time amended.
5. Chapter 6 of the Northbrook Municipal Code, as adopted by Ordinance No. 67-29 on September 12, 1967 and as thereafter from time to time amended.
6. This Code.

11-201 C. Purpose. The Official Comprehensive Plan shall be considered an official statement of the policy of the Village of Northbrook with respect to the existing and developing character of the various areas of the Village and its vicinity; the proper objectives, standards and direction for future maintenance, growth, development and redevelopment of the Village; the means to be employed to protect existing character or development and to encourage future development that will be in the best interests of the Village; and the

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actions and programs to be undertaken by the Village with respect to its future maintenance and development.

11-201 D. Effect. After the adoption of the Official Comprehensive Plan, or a part thereof, no ordinance, regulation or Official Map relating to the physical maintenance, development, or redevelopment of the Village or any land within it shall be enacted, established, amended or varied and no right-of-way, street, utility or public structure or land shall be authorized, established, developed, redeveloped or modified in location or extent except in accordance with the policies, goals, objectives, principles and standards of the Official Comprehensive Plan or relevant part thereof unless the Board of Trustees shall first make a specific finding that the facts and circumstances affecting the particular matter justify a departure from the Plan.

11-201 E. Procedures.

1. Plan Development. The Plan Commission, with the assistance of the Village Manager and the Manager's staff, shall exercise the powers and duties delegated to it by Section 11-103 of this Article in the continuing development and revision of the Official Comprehensive Plan. The process of plan development is necessarily an informal one, not readily adaptable to rigid procedures, but the Plan Commission and the Village Manager, in developing a plan, shall make all reasonable efforts to obtain the views, comments and criticisms of interested persons. In addition, the Plan Commission, prior to making any recommendation for the adoption or amendment of a plan or part thereof to the Board of Trustees, shall set, notice and conduct a public hearing thereon in accordance with the provisions of Section 11-303 of this Article.

The Board of Trustees may, at any time, refer a plan to the Plan Commission for consideration and recommendation. In the case of such referral, the Plan Commission shall return its recommendation to the Board of Trustees not later than 90 days following the receipt of the referral. In the event such recommendation is not so delivered, the Board of Trustees may proceed to consider the amendment without such recommendation.

When satisfied that a plan, or a part thereof, is adequate for adoption as the Official Comprehensive Plan of the Village, or a part thereof or an amendment thereto, the Plan Commission shall transmit such plan or part thereof to the Board of Trustees together with its recommendations for adoption of such plan as well as any reports or statements deemed necessary to a full consideration of such plan or part thereof. Such reports or statements may include majority and minority positions. Such transmittal shall be made not later than fifteen (15) days following the close of the public hearing concerning such plan

2. Plan Adoption. Upon receiving any recommendation of the Plan Commission with respect to adoption or amendment of any plan, or a part thereof, the Board of Trustees may, by ordinance duly enacted, adopt such plan in whole or in part, with or without amendments; or may refer such plan or any part thereof back to the Plan Commission for further consideration; or may reject such plan. The Board shall take such action no later than ninety (90) days following the close of the Plan Commission Public Hearing on such plan. The failure the Board to act within such period shall be deemed to be a rejection of the plan. Upon the adoption of any such plan or part thereof, it shall be designated as the "Official Comprehensive Plan of the Village of Northbrook," and if less than a total comprehensive plan, shall carry a subheading designating its specific contents.

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3. Plan Amendment. The Official Comprehensive Plan, or any part thereof, may be amended at any time in accordance with the provisions of this Paragraph 3. Such an amendment may be initiated by the Board of Trustees, the Plan Commission, the Village Manager, or by any owner of property affected by the provisions of such plan sought to be amended.

Amendments initiated by the Board of Trustees, the Plan Commission or the Village Manager shall require no formal application and shall be processed as provided in Paragraphs E1 and E2 above.

Amendments initiated by the owner of affected property shall be initiated by an application filed pursuant to Section 11-301 of this Article, except that the time limits specified in Paragraphs E1 and E2 above shall apply.

4. Plan Filing and Notice of Adoption. The ordinance adopting the Official Comprehensive Plan, or any part thereof, shall provide that the Village Manager shall cause a certified copy thereof to be placed on file in the Office of the Village Clerk, and shall cause a notice evidencing the adoption of such plan, or part thereof, to be filed with the Cook County Recorder of Deeds.

## **11-202 OFFICIAL MAP**

11-202 A. Authority. The Plan Commission shall have authority to prepare and to recommend to the Board of Trustees an Official Map of the Village and the unincorporated areas surrounding the Village and from time to time to prepare and recommend amendments thereto, all of which the Board of Trustees may adopt as the "Official Map of the Village of Northbrook."

11-202 B. Definition. The "Official Map" shall be defined as a compilation of maps, standards and specifications of and for existing and proposed rights-of-way, streets, alleys, utility easements, public grounds and public utility systems within the Village or within the unincorporated area lying within one and one-half miles of its boundaries as they may from time to time exist, prepared and recommended by the Village Plan Commission with the advice and assistance of the Village Manager and the Village Manager's staff and adopted by the Village Board of Trustees by ordinance duly enacted, together with such amendments thereto as may be adopted from time to time.

Said term shall also refer to any internally consistent and complete portion of such a compilation relating to any one or more of the aforesaid subjects or to any specific portion of the aforesaid geographical area.

As of the effective date of this Code, said term shall be understood to refer to the documents listed in Subsection 11-201 B of this Part.

The Official Map referred to in this Section is the Map authorized by Sections 11-12-6 et seq. of the Illinois Municipal Code, Ill. Rev. Stat. Ch. 24, Subsection 11-12-6 et seq.

11-202 C. Purpose. The Official Map is adopted to implement the Official Comprehensive Plan, to assure the adequacy of the public facilities to which it relates and to secure for the Village the authority and benefits provided by state law in connection with such an Official Map.

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11-202 D. Effect. The Official Map shall have the effect accorded to it by Sections 11-12-8 et seq. of the Illinois Municipal Code, Ill. Rev. Stat. Ch. 24, Subsec. 11-12-8 et seq., and shall also have the effect accorded to the Official Comprehensive Plan by Subsection 11-201 D of this Article.

11-202 E. Procedures. The procedures for the development, adoption, amendment and filing of the Official Map shall be the same as those provided in Subsection 11-201 E of this Article with respect to the Official Comprehensive Plan.

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## **PART III -- ZONING APPLICATIONS AND HEARINGS**

### **11-301 APPLICATIONS**

#### 11-301 A. Place of Filing.

1. Applications for Zoning and Occupancy Certificates, Code Interpretations and Certain Site Plan Approvals. All applications for a Certificate of Zoning Compliance pursuant to Section 11-401 of this Article, a Certificate of Occupancy pursuant to Section 11-402 of this Article, an interpretation pursuant to Section 11-501 of this Article, and a site plan approval pursuant to Subsection 11-604 E1 of this Article, shall be filed with the Office of the Village Manager or with such other Village official or body as the Manager may, by administrative order designate.
2. Applications for Appeals, and Variations and Exceptions. All applications for an appeal pursuant to Section 11-502 of this Article, a variation pursuant to Section 11-503 of this Article, and an exception pursuant to Section 11-505 of this Article shall be filed with the office of the Village Manager for immediate processing pursuant to Subsection 11-303 C1 of this Article.
3. Applications for Amendments, Special Approvals and Certain Site Plan Approvals. All preliminary and formal applications for an amendment pursuant to Section 11-601 of this Article, a special permit pursuant to Section 11-602 of this Article, a planned development pursuant to Section 11-603 of this Article and a site plan approval pursuant to Subsection 11-604 E2 of this Article, shall be filed with the office of the Village Manager for immediate referral to the Board of Trustees. The Village Manager shall cause every properly filed and completed application filed pursuant to this Subparagraph to be on the agenda of the next regular Village Board or Committee of the Whole meeting following the date of such filing.

11-301 B. Form, Number, Scale. All applications filed pursuant to this Code shall be on forms supplied by the Village and shall be filed in such number of duplicate copies as the Village Manager 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 plan and the proposal being made and shall be folded to a convenient size for handling and filing in standard, legal size file drawers.

#### 11-301 C. Filing Deadlines.

1. Applications Requiring Hearings. Applications requiring a public hearing will not be scheduled for such hearing unless and until filed in proper form and number and containing all required information.
2. Applications Not Requiring Hearing. Applications that do not require a public hearing shall be filed, in proper form and number and containing all required information, at least 35 days prior to the time when action on the application is requested. Applications so filed will be processed on a first-filed, first-processed basis.
3. 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 seven days prior to the date on which it is to be considered at a hearing or a meeting or acted upon in connection with such application. The filing of such data shall, in the discretion of the Village Manager and of the body hearing the application, be cause to delay a requested or scheduled hearing date.

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11-301 D. Fees.

1. Fee Established; Lien. Every application filed pursuant to this Code shall be subject to a non-refundable application and filing fee in the amount established in the annual fee ordinance adopted pursuant to the Northbrook Municipal Code plus the actual cost, as hereinafter defined, incurred by the Village in processing such application.

The owner of the property which is the subject of the application and, if different, the applicant, shall be jointly and severally liable for the payment of said fee. By signing the application, 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 Subsection may be foreclosed in the manner provided by statute for mortgages or mechanics liens.

2. Recoverable Costs. For purposes of calculating the fee due pursuant to Paragraph D1 above, 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:

- a) Legal Publication (direct cost)
- b) Recording Secretarial Services (direct cost)
- c) Court Reporter (direct cost)
- d) Administrative Preparation and Review (hourly salary times a multiplier to be established from time to time by the Village Manager at a level sufficient to recover 100 percent (100%) of the direct and indirect cost of such service)
- e) Document Preparation and Review (hourly salary times a multiplier to be established from time to time by the Village Manager at a level sufficient to recover 100 percent (100%) of the direct and indirect cost of such service)
- f) Professional and Technical Consultant Services (direct cost)
- g) Legal Review, Consultation and Advice (direct cost)
- h) Copy Reproduction (direct cost)
- i) Document Recordation (direct cost)

3. Fee Payment and Escrow.

- a) Initial Payment and Escrow. Every application filed pursuant to this Code shall be accompanied by the required fee plus an additional amount for recoverable costs as provided in Paragraph D2 above, as fixed from time to time by administrative order of the Village Manager, to be deposited in an application fee escrow. No interest shall be payable on any such escrow.
- b) Charges Against Escrow. From the date of filing of any application pursuant to this Code, the Village shall maintain an accurate record of the actual costs, as hereinabove defined, of processing such application. The Village Manager shall, from time to time, draw funds from the escrow account established for such application to pay such costs and shall transfer such funds to the appropriate Village accounts. The Manager shall maintain an accurate record of all such drawings.
- c) Additional Escrow Deposits. Should the Village Manager at any time determine that the escrow account established in connection with any application is, or is likely to

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become, insufficient to pay the actual costs of processing such application, the Manager shall inform the applicant of that fact and demand an additional deposit in an amount deemed by him to be sufficient to cover foreseeable additional costs. Unless and until such additional amount is deposited by the applicant, the Village Manager may direct that processing of the application shall be suspended or terminated.

- d) Final Settlement. As soon as reasonably feasible following final action on an application, the Village Manager shall cause a final accounting to be made of the escrow deposits made in connection with such application and the actual cost of processing such application and shall make a final charge of such costs against such escrow deposits. A copy of the accounting shall be provided to the owner and the applicant.

If the amount in the escrow account is insufficient to pay the total actual costs, a written demand for payment of the balance due shall be mailed to the owner and the applicant. If unused balance remains in the escrow account after paying the total actual costs, it shall be returned to the applicant.

4. Condition of All Applications, Approvals and Permits; Time Periods. No application filed pursuant to this Code shall be considered complete unless and until all fees and deposits due pursuant to this Subsection have been paid. Every approval granted and every permit issued pursuant to this Code shall, whether or not expressly so conditioned, be deemed to be conditioned upon payment of fees as required by this Subsection.

Where this Code provides that the passage of time without decision or action shall be deemed an approval or a recommendation for approval, time periods shall be tolled during any period of non-payment, but shall otherwise continue to run.

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.

5. Specified Public Bodies Exempt. The provisions of this Subsection 11-301 D shall not apply to, and no fee shall be required of, any public body or agency deriving the majority of its revenues from taxes levied within the Village of Northbrook.

11-301 E. Minimum Data Requirements.

1. All Applications. Every application submitted pursuant to this Code shall contain at least the following information:
- a) The owner's name and address and the owner's signed consent to the filing of the application.
  - b) The applicant's name and address, if different than the owner, and his interest in the subject property.
  - c) The names, addresses and telephone numbers of all professional consultants, if any, advising the applicant with respect to the application.
  - d) The name and address and the nature and extent of the interest, as defined in the Northbrook Ethics Code, of any officer or employee of the Village in the owner, the applicant or the subject property.

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- e) The address and legal description of the subject property.
  - f) A description or graphic representation of the proposal for which approval is being sought and of the existing zoning classification, use and development of the subject property. The scope and detail of such description shall be appropriate to the subject matter of the application, with special emphasis on those matters likely to be affected or impacted by the approval being sought in the application.
  - g) In the case of any application being filed less than two years after the denial of an application seeking essentially the same relief, the statement required by Subsection 11-302 B of this Article.
  - h) Proof of control or ownership, in the case of site-specific applications.
2. Applications for Zoning and Occupancy Certificates. Every application filed pursuant to Section 11-401 or 11-402 of this Code shall, in addition to the data and information required pursuant to Paragraph 1 above, provide the following information:
- a) A description or graphic representation of any development or construction that will occur or any use that will be established or maintained if the requested relief is granted.
  - b) A table showing the following, if applicable,:
    - (1) The total lot area of the subject property, in acres and in square feet;
    - (2) The total existing and proposed lot area, expressed in acres, in square feet and as a percent of the total development area, devoted to residential uses, by type of structure, commercial uses, office uses, industrial uses and institutional uses, open space, rights-of-way, streets, and off-street parking and loading areas; and
    - (3) The existing and proposed:
      - (i) Number of dwelling units, by number of bedrooms and dwelling unit gross floor area; and
      - (ii) Gross and net floor area devoted to residential uses, commercial uses, office uses, industrial uses, institutional uses and recreational uses.
  - c) A table listing all bulk, space and yard requirements, all parking requirements, and all loading requirements applicable to any proposed development or construction and showing the compliance of such proposed development or construction with each such requirement. Where any lack of compliance is shown, the reason therefor shall be stated and an explanation of the Village's authority, if any, to approve the application despite such lack of compliance shall be set forth.
  - d) The certificate of a registered architect or civil engineer licensed by the State of Illinois, or of an owner-designer, that any proposed use, construction or development complies with all the provisions of this Code and other Village ordinances or complies with such provisions except in the manner and to the extent specifically set forth in said certificate.
3. Applications for Code Interpretations. Every application filed pursuant to Section 11-501 of this Code shall, in addition to the data and information required pursuant to Paragraph 1 and, where relevant, Paragraph 2 above, provide the following information:
- a) The specific provision or provisions of this Code for which an interpretation is sought.

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- b) The facts of the specific situation giving rise to the request for an interpretation.
  - c) The precise interpretation claimed by the applicant to be correct.
  - d) Where a use interpretation is sought, the use permitted pursuant to the present zoning classification of the subject property that is claimed by the applicant to include, or to be most similar to, the proposed use.
  - e) Where a use interpretation is sought, documents, statements and other evidence demonstrating that the proposed use will comply with all use limitations established for the district in which it is proposed to be located.
4. Applications for Appeals. Every application filed pursuant to Section 11-502 of this Code shall, in addition to the data and information required pursuant to Paragraph 1 and, where relevant, Paragraph 2 above, provide the following information:
- a) The specific order, decision or determination of failure to act from which an appeal is sought.
  - b) The facts of the specific situation giving rise to the original order, decision, determination or failure to act and to the appeal therefrom.
  - c) The precise relief sought.
  - d) A statement of the applicant's position as to alleged errors in the order, decision, determination or failure to act being appealed and as to why the relief sought is justified and proper.
5. Applications for Variations. Every application filed pursuant to Section 11-503 of this Code shall, in addition to the data and information required pursuant to Paragraph 1 and, where relevant, Paragraph 2 above, provide the following information:
- a) The specific feature or features of the proposed use, construction or development that require a variation.
  - b) The specific provision of this Code from which a variation is sought and the precise variation therefrom being sought.
  - c) A statement of the characteristics of the subject property that prevent compliance with the said provisions of this Code.
  - d) A statement of the minimum variation of the provisions of this Code that would be necessary to permit the proposed use, construction or development.
  - e) A statement of how the variation sought would satisfy the standards set forth in Subsection 11-503 F of this Code.
  - f) The names and addresses of all owners of:
    - 1) Property within 250 lineal feet, excluding street rights-of-way, in all directions from the subject property; and
    - 2) Property located on the same frontage or frontages as the front lot line or corner side lot line of the subject property and on a frontage directly opposite any such frontage and on a frontage immediately adjoining or across an alley from any

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such frontage, as shown in the records of the Office of the Assessor of Cook County.

- g) A survey, certified by a registered land surveyor, showing existing lot lines and dimensions as well as lot area, all easements, all public and private rights-of-way and all streets across and adjacent to the subject property.
- h) A statement concerning the conformity or lack of conformity of the approval being requested to the Village Official Comprehensive Plan and Official Map. Where the approval being requested does not conform to the Official Comprehensive Plan or the Official Map, reasons justifying the approval despite such lack of conformity shall be stated.

6. Applications for Official Comprehensive Plan or Zoning Code Text Amendments. Every application filed pursuant to Paragraph 11-201 E3 or formal applications filed pursuant to Paragraph 11-601 D2 of this Code requesting an amendment to the text of either the Official Comprehensive Plan or this Code shall, in addition to the data and information required pursuant to Paragraph 1 and, where relevant, Paragraph 2 above, provide the following information:

- a) The exact wording of the proposed text amendment.
- b) A statement of the need and justification for the proposed text amendment.
- c) The names and addresses of all owners of
  - (1) Property within 250 lineal feet, excluding street rights-of-way, in all directions from the subject property; and
  - (2) Property located on the same frontage or frontages as the front lot line or corner side lot line of the subject property and on a frontage directly opposite any such frontage and on a frontage immediately adjoining or across an alley from any such frontage, as shown in the records of the Office of the Assessor of Cook County.
- (d) A survey, certified by a registered land surveyor, showing existing lot lines and dimensions as well as lot area, all easements, all public and private rights-of-way and all streets across and adjacent to the subject property.
- (e) A statement concerning the conformity or lack of conformity of the approval being requested to the Village Official Comprehensive Plan and Official Map. Where the approval being requested does not conform to the Official Comprehensive Plan or

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the Official Map, reasons justifying the approval despite such lack of conformity shall be stated.

7. Formal Applications for Special Permits. Every application filed pursuant to Paragraph 11-602 D2 of this Code shall, in addition to the data and information required pursuant to Paragraph 1 and, where relevant, Paragraph 2 above, provide the following information:
- a) A written statement of the need for the special permit.
  - b) The names and addresses of all owners of
    - (1) Property within 250 lineal feet, excluding street rights-of-way, in all directions from the subject property; and
    - (2) Property located on the same frontage or frontages as the front lot line or corner side lot line of the subject property and on a frontage directly opposite any such frontage and on a frontage immediately adjoining or across an alley from any such frontage, as shown in the records of the Office of the Assessor of Cook County.
  - c) A survey, certified by a registered land surveyor, showing existing lot lines and dimensions as well as lot area, all easements, all public and private rights-of-way and all streets across and adjacent to the subject property.
  - d) A statement concerning the conformity or lack of conformity of the approval being requested to the Village Official Comprehensive Plan and Official Map. Where the approval being requested does not conform to the Official Comprehensive Plan or the Official Map, reasons justifying the approval despite such lack of conformity shall be stated.
  - e) An application for site plan approval pursuant to Section 11-604 of this Article.
8. Applications for Zoning or Official Comprehensive Plan Map Amendments. Every application filed pursuant to Paragraph 11-201 E3 or formal applications filed pursuant to Paragraph 11-601 D2 of this Code requesting an amendment to the Official Comprehensive Plan Map or the Zoning Map shall, in addition to the data and information required pursuant to Paragraph 1 and, where relevant, Paragraph 2 above, provide a statement of the need and justification for the proposed Plan or Zoning Map amendment. Said statement shall address at least the following factors:

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- a) The existing uses and zoning classifications of properties in the vicinity of the subject property.
  - b) 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 plan designation or zoning classification.
  - c) The extent to which the value of the subject property is diminished by the existing plan designation or zoning classification applicable to it.
  - d) The extent to which such diminution in value is offset by an increase in the public health, safety and welfare.
  - e) The extent, if any, to which the use and enjoyment of adjacent properties would be affected by the proposed amendment.
  - f) The extent, if any, to which the value of adjacent properties would be affected by the proposed amendment.
  - g) The extent, if any, to which the future orderly development of adjacent properties would be affected by the proposed amendment.
  - h) The suitability of the subject property for uses permitted or permissible under its present plan designation and zoning classification.
  - i) 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.
  - j) The availability of adequate utilities and essential public services to the subject property to accommodate the uses permitted or permissible under its present plan designation and zoning classification.
  - k) 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.
  - l) The community need for the proposed map amendment and for the uses and development it would allow.
  - m) The names and addresses of all owners of:

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- (1) Property within 250 lineal feet, excluding street rights-of-way, in all directions from the subject property; and
  - (2) Property located on the same frontage or frontages as the front lot line or corner side lot line of the subject property or on a frontage directly opposite any such frontage or on a frontage immediately adjoining or across an alley from any such frontage, as shown in the records of the Office of the Assessor of Cook County.
9. Applications for Planned Development Concept Plan Approval. Every application filed pursuant to Paragraph 11-603 D2 of this Code shall, in addition to the data and information required pursuant to Paragraph 1 and, where relevant, Paragraph 2 above, provide the following information:
- a) A development name unique to the Northbrook area for identification purposes.
  - b) Evidence that the applicant has sufficient control over the subject property to effectuate the proposed planned development, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property, and a recent commitment for title insurance or ownership search certificate.
  - c) A map depicting municipal and special district boundaries where adjacent to or within the subject property.
  - d) A written statement addressing the following matters:
    - (1) A general description of the proposed planned development, the planning objectives to be achieved by it, including the rationales and assumptions of the applicant supporting the proposed planned development, and the market it is intended to serve.
    - (2) How the proposed planned development is to be designed, arranged and operated so as not to adversely affect the development and use of neighboring property in accordance with applicable regulations of this Code.
  - e) Schematic, soft-line drawings of the proposed planned development concept, including public or private rights-of-way on or adjacent to the subject property, the proposed dimensions and locations of vehicular and pedestrian circulation and parking elements, public and private open space, and residential, commercial, office, industrial and other land uses, and the general location of and purpose of all easements.

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- f) A Tax Impact Study indicating the possible tax consequences the proposed planned development will have upon the Village and other affected taxing bodies.
  - g) A Traffic and Transit Impact Study including a list of new street construction and traffic control improvements necessary to accommodate the estimated increase in traffic and traffic related problems occasioned by the proposed development and a statement of the applicant's proposals for providing those needed improvements.
  - h) A preliminary engineering study showing the location and adequacy of existing and proposed sanitary sewer, storm sewer and water distribution systems.
  - i) A copy of an application for a Natural Resource Assessment to the North Cook County Soil and Water Conservation District if the subject property is two acres or larger.
  - j) A written statement identifying existing natural and environmental resources and features on the subject property, including its topography, vegetation, soils, geology, and scenic view, and the impact of the proposed planned development on such resources and features, including proposals to preserve or protect such resources and features.
  - k) Schematic, soft-line architectural elevations indicating the general style of architecture and typical building materials.
  - l) A statement of the applicant's intent with respect to the ownership, sale and leasing of the various completed units, structures, spaces and areas within the proposed planned development.
  - m) If the planned development is to be constructed in stages or units during a period extending beyond a single construction season, a development schedule for each and every such stage stating the approximate beginning and completion date, proportion of total public or common open space to be provided for each use and with each development stage.
  - n) A detailed description of the financial assurances to be presented to guarantee completion of all public improvements and private open space to be provided in connection with the proposed planned development.
  - o) Evidence of the financing plan the applicant proposes to use to complete the proposed planned development. The applicant's prior success in completing projects of similar scope may be offered in support of this requirement.

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p) A preliminary plat of subdivision if required pursuant to the Northbrook Subdivision Ordinance.

10. Applications for Planned Development Final Plan Approval. Every application filed pursuant to Paragraph 11-603 D4 of this Article shall, in addition to the data and information required pursuant to Paragraph 1 and, where applicable, Paragraph 2 above, provide the following information:

a) The date on which Development Concept Plan approvals were granted.

b) An application for site plan approval pursuant to Section 11-604 of this Article.

c) A statement and plan of the proposed treatment of the perimeter of the proposed planned development, including materials and techniques to be used.

d) When the proposed planned development, or stage thereof, includes provision for public or common open space, a statement describing the provision made for the dedication or care and maintenance of such open space. If it is proposed that such open space be owned or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws of such entity shall be submitted. When the property is to be dedicated, a draft of the instrument of dedication shall be submitted.

e) Copies of any restrictive covenants to be recorded with respect to property included in the Final Plan.

f) A statement summarizing all changes that have been made, or have occurred, in any document, plan, data or information previously submitted, together with a revised copy of any such document, plan or data.

g) A final plat of subdivision if required pursuant to the Northbrook Subdivision Ordinance.

h) All engineering data and drawings required in connection with an application for final subdivision approval under the Northbrook Subdivision Ordinance (3 sets only).

i) All certificates, seals and signatures required for the dedication of land and recordation of documents.

j) Hard line elevations and floor plans.

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- k) Proof from appropriate governmental agencies that all taxes on the subject property have been paid and that all special assessments, taxes, or other levies against the subject property or any part thereof have been paid in full.

11. Applications for Site Plan Approval. Whenever an application filed pursuant to any provision of this Code involves any use, construction or development requiring the submission of a site plan pursuant to Section 11-604 of this Article, a site plan illustrating the proposed use, construction or development and providing at least the following data and information, on one or more sheets, shall be submitted as part of the application:

- a) A graphic rendering of the existing conditions, which depicts:
  - (1) All significant natural, topographical and physical features of the subject property including topographical contours at one foot intervals;
  - (2) The location and extent of tree cover including single trees in excess of eight inches in diameter at five feet above ground level;
  - (3) The location and extent of water bodies and courses, wetlands, marshes and special flood hazard areas and floodways on or within 100 feet of the subject property;
  - (4) Existing drainage structures and patterns; and
  - (5) Soil conditions as they affect development.
- b) The location, use, size and height in stories and feet of structures and other land uses on properties within 250 feet of the subject property.
- c) For areas within any required yard or setback, any proposed regrading of the subject property.
- d) Data concerning proposed structures and existing structures that will remain, including:
  - (1) Location, size, use and arrangement, including height in stories and feet;

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- (2) Where relevant, floor area ratio, gross floor area and net floor area;
  - (3) Where relevant, number and size of dwelling units, by dwelling unit type and number of bedrooms;
  - (4) Building coverage; and
  - (5) Description of the calculation method utilized in computing all required statistics shown.
- e) Minimum yard and setback dimensions and, where relevant, relation of yard and setback dimensions to the height, width and depth of any structure.
  - f) A vehicular and pedestrian circulation plan showing the location, dimensions, gradient and number of all vehicular and pedestrian circulation elements including rights-of-way and streets; driveway entrances, curbs and curb cuts; parking spaces, loading spaces and circulation aisles; sidewalks, walkways and pathways; and total lot coverage of all circulation elements divided as between vehicular and pedestrian ways
  - g) All existing and proposed surface and sub-surface drainage and retention and detention facilities and existing and proposed water, sewer, gas, electric, telephone and cable communications lines and easements and all other utility facilities.
  - h) Location, size and arrangement of all outdoor signs and lighting.
  - i) Location and height of fences or screen plantings and the type or kind of building materials or plantings to be used for fencing or screening.
  - j) Location, designation and total area of all usable open space.
  - k) A detailed landscaping plan, showing location, size and species of all trees, shrubs and other plant material.
  - l) A traffic study, if required by the Village Manager or the Board or Commission hearing the application.

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m) An erosion control plan for the period during which construction will be taking place, if required by the Village Manager or the Board or Commission hearing the application.

n) Hard line elevations and floor plans.

o) The names and addresses of all owners of:

(1) Property within 250 lineal feet, excluding street rights-of-way, in all directions from the subject property; and

(2) Property located on the same frontage or frontages as the front lot line or corner side lot line of the subject property and on a frontage directly opposite any such frontage and on a frontage immediately adjoining or across an alley from any such frontage, as shown in the records of the Office of the Assessor of Cook County.

12. Applications for Appeal from Denial of Site Plan Approval. Every application filed pursuant to Subparagraph 11-604 E(1)(d) shall, in addition to the data and information required pursuant to Paragraph 1 above, provide the following information:

a) A copy of the original application for site plan approval.

b) A statement of the applicant's position as to the alleged errors in the Manager's denial of site plan approval and as to why approval of the site plan is justified and proper.

13. Applications for Flood Plain Development Permit Approval. Every application filed pursuant to Section 11-403 of this Code shall, in addition to the data and information required pursuant to Paragraph 1 above, provide the following information, unless waived by the Village Manager in accordance with Subsection 11-101 F:

a) Name and address of contractors involved in the flood plain development activity.

b) Location of the property, drawn to scale, on the regulatory floodway or FIRM map.

c) Name of stream or body of water affected.

d) Description of proposed flood plain development activity.

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- e) Statement of purpose of proposed flood plain development activity.
  - f) Anticipated dates of initiation and completion of activity.
  - g) Estimated market value of proposed new construction or improvement to an existing structure, and the basis for such estimate if requested by the Village Manager.
  - h) Engineering grading plans of the proposed flood plain development activity shall accompany the application. Such engineering plans shall include, at a minimum, the following, and shall be sealed by an Illinois registered engineer, architect, or land surveyor, as appropriate:
    - (1) A vicinity map showing the location of the proposed site's activity, name of the waterway, boundary lines, and dimensions, names of roads in the vicinity of the site, graphic or numerical scale, and north arrow;
    - (2) A site grading, utility, and soil erosion plan of the proposed project and engineering flood study reach indicating existing and proposed site conditions. These revisions include the following:
      - (i) The location and principal dimensions of the structure or work, including all buildings and additions to buildings;
      - (ii) Elevations in mean sea level using the North American Vertical Datum of 1988 (NAVD), and all changes in grade resulting from excavation or filling;
      - (iii) Adjacent rights-of-way, property lines and ownership;
      - (iv) Existing and proposed drainage and flood control easements;
      - (v) Location of any channels and any existing or future access roads;
      - (vi) Distance between proposed activity and navigation channel, when the proposed construction is within one thousand (1000) feet of a commercially navigable body of water;
      - (vii) Utility locations;

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- (viii) Flood plain and regulatory floodway limits;
  - (ix) Flood fringe limits;
  - (x) Specifications and channel dimensions of any proposed channel modifications; and
  - (xi) Location and orientation of engineering cross-sections:
  - (xii) For all proposed development, the elevation of the lowest floor (including basement) and lowest adjacent grade shall be shown on the submitted plans.
- (3) Cross-section views of the project site and the hydraulic engineering study of the reach indicating the existing and proposed site and flooding level conditions including principal floodway dimensions and coefficients of existing and proposed site elevations, normal water elevation, ten (10) year and one hundred (100) year frequency storm flood levels, and graphic or numerical scales (horizontal and vertical).
- (4) A soil erosion and sedimentation control plan for the disturbed areas, in accordance with the Northbrook Standards and Specifications.
- (5) A copy of the current regulatory floodway map, marked to reflect any proposed change in the regulatory floodway location.
- (6) Any and all other local, state and federal flood plain permits or approval letters that may be required for the type of development proposed.
- (7) Engineering drainage, stormwater runoff, and volumetric grading calculations and supporting topographic data shall be submitted with the proposed site plans in accordance with Northbrook Standards and Specifications.
- (8) If the flood plain development permit application is for a structure, such application shall be accompanied by:
- (i) Accurate topographic drawings of the site indicating property line bearings and dimensions and existing ground elevations (NAVD 88 Datum), and all proposed changes in grade resulting from any proposed excavation or filling, and flood plain, flood fringe, and proposed floodway limits, sealed by an

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Illinois registered professional engineer, licensed architect or registered land surveyor;

(ii) The location and dimensions of all structures, landscape berms, fences, buildings and additions to buildings; and the elevation of the lowest floor (including basement) of all proposed buildings subject to the requirements of Flood Hazard Overlay District regulations of this Code.

(9) If the regulatory floodway location or base flood elevation will change due to the proposed development, the application will not be considered complete until both FEMA and IDNR/OWR have provided conditional approval of changes to the regulatory floodway map change. No structures may be built until Letters of Map Revision or a Letter of Map Amendment has been issued by FEMA.

(10) If the proposed development involves a channel modification, the applicant shall submit the following additional information:

(i) A written explanation with discussion identifying the purpose of and need for the proposed work;

(ii) A written explanation with discussion identifying the feasibility of using alternative locations or methods to accomplish the purpose of the proposed work; and

(iii) An analysis of the extent and permanence of the significant impacts the project would have on existing natural features.

(11) If the proposed development involves an appropriate use of the floodway, a statement that the development meets the requirements of Section 8-207 of this Code for appropriate uses.

14. Applications for Exceptions. Every application filed pursuant to Section 11-505 of this Code shall, in addition to the data and information required pursuant to Paragraph 1 and, where relevant, Paragraph 2 above, provide the following information:

a) A written statement of the need for the exception.

b) The names and addresses of all owners of

(1) Property within 250 lineal feet, excluding street rights-of-way, in all directions from the subject property; and

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- (2) Property located on the same frontage or frontages as the front lot line or corner side lot line of the subject property and on a frontage directly opposite any such frontage and on a frontage immediately adjoining or across an alley from any such frontage, as shown in the records of the Office of the Assessor of Cook County.
- c) A survey, certified by a registered land surveyor, showing existing lot lines and dimensions as well as lot area, all easements, all public and private rights-of-way and all streets across and adjacent to the subject property.
- d) A statement concerning the conformity or lack of conformity of the relief being requested to the Village Official Comprehensive Plan and Official Map. Where the relief being requested does not conform to the Official Comprehensive Plan or the Official Map, reasons justifying the approval despite such lack of conformity shall be stated.
- e) An application for site plan approval pursuant to Section 11-604 of this Article.

11-301 F. Special Data Requests. In addition to the data and information required pursuant to Subsection E of this Section, every applicant shall submit such other and additional data, information or documentation as the Village Manager or any 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.

11-301 G. Concurrent Applications. Where a proposed use or development requires more than one approval pursuant to this Code, applications for all such approvals may be filed concurrently notwithstanding the fact that approval of one application may be a precondition 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 precondition to its approval have first been approved.

11-301 H. Withdrawal of Application. An applicant may withdraw an application at any time prior to a final decision having been rendered with respect thereto; provided that the applicant shall have paid all applicable application fees pursuant to Subsection 11-301 D. Such withdrawal shall be without prejudice to the applicant's right to refile such application, but any such refiling 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.

## **11-302 SUCCESSIVE APPLICATIONS**

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11-302 A. 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, shall not be brought unless, in the opinion of the Officer, Board or Commission before which it is brought, substantial new evidence is available or a mistake of law or fact significantly affected the prior denial.

11-302 B. New Grounds to be Stated. Any such second application shall include a detailed statement of the grounds justifying consideration of such application.

11-302 C. Exception. Whether or not new grounds are stated, any such second application filed more than two years 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.

**11-303 PUBLIC HEARINGS AND MEETINGS**

11-303 A. Setting Hearing or Meeting; Time Limitation. When the provisions of this Code require a public hearing or meeting in connection with any application filed pursuant to this Code, the body charged with conducting the hearing or meeting shall, upon receipt of a properly completed application, fix a reasonable time and place for such hearing or meeting; provided, however, that such hearing or meeting shall be commenced no later than 60 days, and shall be concluded no later than 120 days, following the receipt of the subject application unless the applicant shall agree to an extension or unless the hearing or meeting agenda of the body is completely committed during that time. In all cases where the Plan Commission is the body charged with conducting the hearing, an application shall be deemed to have been "received" on the date of the referral of such application by the Board of Trustees.

11-303 B. Notice.

1. Notice to be Given. Notice of public hearings and meetings set pursuant to Subsection A of this Section shall be given by the Village Manager or the applicant, as the case may be, in the form and manner and to the persons herein specified.
  
2. 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 the address or particular location, as well as a legal description, of the subject property.
  
3. Persons Entitled to Notice

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(a) All Hearings and Meetings. Notice of every hearing or meeting set pursuant to Subsection A of this Section shall be given by the Village Manager:

- (1) By mail or personal delivery to the applicant and, if a specific parcel is the subject of the application, to the owner of the subject property.
- (2) By mail to any newspaper or person that shall have filed a written request, accompanied by an annual fee as established from time to time by the Village Manager to cover postage and handling, for notice of all hearings or meetings held pursuant to this Code. Such written request shall automatically expire on December 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.
- (3) By mail, personal delivery or interdepartmental delivery to affected Village Boards, Commissions, Departments and Officials.

Notice by mail as herein required, shall be mailed no less than five days in advance of the hearing or meeting date by regular United States mail.

(b) Hearings on Amendments, Special Permits, Exceptions and Variations. In addition to notice as required by Subparagraph B3(a) above, the following notice shall be given for every hearing set pursuant to Subsection A of this Section in connection with an application for an amendment to this Code (other than an amendment to the Zoning Map), a special permit, variation or exception:

- (1) Content of Notice. The notice required pursuant to this Subparagraph shall contain, at a minimum, the following information:
  - (i) The street address, legal description or detailed location description of the property, if any, that is the subject of the application;
  - (ii) A brief statement of the nature of the relief being requested;
  - (iii) The name and address of the applicant;
  - (iv) The name and address of the legal and beneficial owner of the property, if any, that is the subject of the application; and
  - (v) The public hearing date, time and location.

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- (2) Notice by Newspaper Publication. The Village Manager shall cause a notice to be published in a newspaper published in, or of general circulation within, the Village at least once no less than fifteen (15) days, nor more than thirty (30) days, in advance of the hearing date.
- (3) Notice by Mail. If a specific property is the subject of the application, the applicant shall deliver a notice, by certified mail, return receipt requested, or by personal delivery, to all owners of all property located, in whole or in part, within 250 feet of the subject property measured in all directions of the subject property excluding public and railroad rights-of-way. The notice shall be mailed or personally delivered, as the case may be, no less than fifteen (15) days, nor more than thirty (30) days, in advance of the hearing date. The mailing of a notice pursuant to this Subparagraph addressed to the name and address on the most recent Cook County or Lake County real estate tax records shall be deemed a satisfaction of this notice by mail requirement.
- (4) Notice by Sign. If a specific property is the subject of the application, the applicant shall post the subject property with a ground sign of approximately six (6) square feet of gross surface area containing the legibly written notice. The sign shall be located on the subject property so as to be visible from at least one (1) right-of-way abutting the subject property. The applicant shall remove the sign within three (3) days after the hearing is closed. The notice by sign requirement shall not be applicable for any application for a variation.
- (5) Report to Hearing Body. At the hearing, the applicant shall present to the hearing body an affidavit, certification or other evidence satisfactory to the hearing body, demonstrating, to the satisfaction of the hearing body, that the applicable notice requirements of this Subparagraph have been satisfied.
- (c) Hearing on Renewal of Special Permits. In addition to notice as required by Subparagraph B3(a) above, notice of a hearing for the renewal of a special permit pursuant to Subsection 11-602 K of this Code shall be given in accordance with Subparagraphs 11-303 B3(b) (1), (3), (4) and (5); provided, however, that the notice by mail requirement in Subparagraph 11-303 B3(b)(3) shall be satisfied by U.S. Mail, first class pre-paid, instead of certified mail.
- (d) Hearing on Official Comprehensive Plan. In addition to notice as required by Subparagraph B3(a) above, notice of every hearing set pursuant to Subsection A hereof in connection with the adoption of the Official Comprehensive Plan shall be give by publication in a newspaper of general circulation in Cook County at least fifteen (15) days before such hearing.
- (e) Hearing on Zoning Map Amendments. In addition to notice as required by Subparagraph B3 (a) above, notice of every hearing set pursuant to Subsection A hereof in connection with an application for an amendment to the Zoning Map shall

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be pursuant to Subparagraph 11-303 B3 (b); provided, however, that the requirements set forth in Subparagraph 11-303 B3 (b)(4) shall not apply in any of the following instances:

- (1) when the Village is the applicant and none of the property that is the subject of the application is owned by the Village; or
- (2) the property that is the subject of the application consists of five (5) or more zoning lots.

11-303 C. Referral to Village Commissions and Departments.

1. Hearings and Meetings Regarding Appeals and Variations and Exceptions.

- (a) Manager to Refer Applications. The Village Manager shall, not later than the time set pursuant to Subsection B of this Section for giving public notice, refer every application for an appeal pursuant to Section 11-502 of this Article and for a variation pursuant to Section 11-503 of this Article, unless pursuant to Paragraph 11-503 D4 of this Article, and for an exception pursuant to Section 11-505 of this Article, to all appropriate Village Commissions and Departments.
- (b) Review and Comments. Each Village Commission and Department to which an application is referred pursuant to this Subsection shall review such application and submit its comments thereon to the Staff Secretary of the Zoning Board of Appeals.

Such comments shall, whenever possible, be submitted at least two business days prior to the date set for the hearing and shall be made available to any person on request prior to the hearing.

2. Hearings and Meetings Regarding Variations, Amendments, Exceptions and Special Approvals.

- (a) Manager to Refer Applications. Following receipt from the Board of Trustees of an application for a variation pursuant to Paragraph 11-503 D4 of this Article, an amendment pursuant to Section 11-601 of this Article, a special permit pursuant to Section 11-602 of this Article, an exception pursuant to Section 11-505 of this Article, and a planned development pursuant to Section 11-603 of this Article, the Village Manager shall, not later than the time set pursuant to Subsection B of this Section for giving public notice, refer such application to all appropriate Village Commissions and Departments.

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- (b) Review and Comments. Each Village Commission and Department to which an application is referred pursuant to this Subsection shall review such application and submit its comments thereon to the Staff Secretary of the Plan Commission.

11-303 D. Conduct of Hearings.

1. 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.
  
2. Rights of Parties and Proximate Owners. The applicant and, subject to restrictions imposed by the Northbrook Ethics Code, any Board, Commission, Department or Official of the Village, and any property owner entitled to written notice pursuant to Subparagraph B3(b)(2) of this Section, may, subject to the discretion of the hearing body, in addition to the rights granted by Paragraph D1 above, be allowed any or all of the following rights:
  - a) To present witnesses on their behalf;
  
  - b) To cross-examine all witnesses testifying in opposition to their position;
  
  - c) To examine and reproduce any documents produced at the hearing;
  
  - d) To have subpoenas issued by the body in charge of the hearing for persons to appear at the hearings and for examination of documents by the person requesting the subpoena either before or during the hearing, where such persons or documents are shown to have a substantial evidentiary connection with:
    - (1) The property to which the request applies; or
  
    - (2) Facts that would support or negate the legal standards for granting the request; and
  
  - e) To be granted, upon request, a continuance for the purpose of presenting evidence to rebut evidence introduced by any other person.

In granting or withholding such rights, the discretion of the hearing body shall be governed by the goal of securing all information and opinion relevant and material to its deliberations. Such rights shall not, however, be granted where undue and

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unwarranted delay would result, or where to do so would tend to produce no new evidence to aid the hearing body in reaching its decision.

3. 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 body finds to be sufficient. The Staff Secretary of the hearing body shall notify in writing all members of the hearing body, all parties to the hearing, and any other person designated on the vote of adjournment, of the date, time and place of the adjourned hearing.
  4. Testimony to be Sworn. All testimony at any hearing held pursuant to the provisions of this Code shall be given under oath.
  5. Right to Submit Written Statements. Any person may at any time prior to the commencement of a hearing hereunder, or during such hearing or within such time as may be allowed by the hearing body following such hearing, submit written statements in support of or in opposition to the application being heard. Such statements shall be subscribed and sworn before an officer authorized to administer oaths and shall be a part of the public record of the hearing.
  6. Board or Commission Rules to Govern. All other matters pertaining to the conduct of hearings shall be governed by the provisions of this Code pertaining to, and the rules promulgated by, the body conducting the hearing.
- 11-303 E. Pre-hearing and Pre-meeting Examination and Copying of Application and Other Documents. At any time following the giving of notice as required in Subsection B of this Section, and upon reasonable request, any person may examine the application and, subject to the exceptions set forth in the Illinois Freedom of Information Act, all other documents on file with the Office of the Village Manager, pertaining to the matter subject to such notice. In addition, any person shall be entitled to copies of such application and documents upon reasonable request and payment of a fee as established from time to time by the Village Manager to cover the cost of such copies.

## **PART IV -- ZONING CERTIFICATES**

### **11-401 CERTIFICATE OF ZONING COMPLIANCE**

- 11-401 A. Authority. The Village Manager shall have authority to issue Certificates of Zoning Compliance, but only in accordance with the provisions of this Section.

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11-401 B. Purpose. The Certificate of Zoning Compliance is intended to serve two general purposes. First, it provides a procedure for reviewing plans for conformance with this Code and a means for evidencing such conformance. Second, it 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 Manager prior to consideration of special requests by other Officials, Boards and Commissions, thus avoiding needless special reviews of defective plans.

11-401 C. Certificate Required. Except where expressly waived by another provision of this Code, unless a Certificate of Zoning Compliance shall have first been obtained from the Village Manager:

1. The construction, reconstruction, remodeling, alteration or moving of any structure shall not be commenced;
2. No land vacant on the effective date of this Code shall be used or occupied for any purpose, except the raising of crops;
3. The grading, excavation or improvement of land preliminary to any construction on or use of such land shall not be commenced; and
4. 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.

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

11-401 D. Relation to Other Applications. No application for a zoning variation, formal application for a special permit, formal application for an amendment or formal application for approval of a Development Concept Plan shall be processed unless an application for a Certificate of Zoning 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 Part III. It is the intent of this Section that no application filed pursuant to Part III of this Article with respect to a specific use or development proposal shall be processed until the Village Manager 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.

11-401 E. Procedure.

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1. Application. Applications for Certificates of Zoning Compliance shall be filed in accordance with the requirements of Section 11-301 E2 of this Article.
  2. Action on Application. Within ten (10) days following receipt of a completed application for a Certificate of Zoning Compliance, the Village Manager 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 Manager shall issue a Certificate of Zoning 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 CHAPTER 6 OF THE NORTHBROOK MUNICIPAL 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 11-402 OF THE NORTHBROOK ZONING CODE AND CHAPTER 6 OF THE NORTHBROOK MUNICIPAL CODE FOR DETAILS."**

In any case where an application is denied, the Village Manager shall state 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 Certificate of Zoning Compliance, the Village Manager shall so inform the applicant and shall promptly process such companion application. If such application is approved, the Manager shall issue the requested Certificate of Zoning Compliance in accordance with the terms and conditions of such approval.

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

3. Contents of Certificate. Each Certificate of Zoning Compliance issued pursuant to this Section 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.

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4. Filing of Certificates. Every Certificate issued pursuant to this Section shall be kept on file in the Office of the Village Manager and shall be a public record open to inspection in accordance with the provisions of the Illinois Freedom of Information Act.

11-401 F. Effect of Issuance of Certificate of Zoning Compliance. The issuance of a Certificate of Zoning Compliance shall not authorize the establishment, expansion or extension of any use nor the development, construction, relocation, alteration or moving of 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.

11-401 G. Limitations on Certificates. Subject to an extension of time granted by the Village Manager pursuant to Subsection 11-101 L of this Article, a Certificate of Zoning Compliance shall become null and void six 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.

11-401 H. Void Certificates. Any Certificate of Zoning 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.

## **11-402 CERTIFICATE OF OCCUPANCY**

11-402 A. Authority. The Village Manager shall have authority to issue Certificates of Occupancy; provided, however, that no such certificate shall be issued except in accordance with the provisions of this Section and the provisions of the Northbrook Municipal Code governing development, building and related matters.

11-402 B. Purpose. For the purposes of this Code, the Certificate of Occupancy provides a procedure for the inspection of completed premises to ensure their compliance with this Code and approved plans prior to commencement of the use or occupancy of such premises. The Certificate may also evidence compliance with other provisions of the Northbrook Municipal Code, as set forth in those provisions.

11-402 C. Certificate Required. Unless a Certificate of Occupancy shall have first been obtained certifying compliance with the provisions of this Code:

1. No structure, or addition thereto, constructed, reconstructed, remodeled, altered or moved after the effective date of this Code shall be occupied or used for any purpose;

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2. No land vacant as of the effective date of this Code shall be used or occupied for any purpose, except the raising of crops;
  3. Except for changes involving only substitution of occupants in existing dwelling units, no use or occupancy of any land or structure shall be changed to any other use or occupancy, whether or not construction, remodeling, alteration or moving is involved.

11-402 D. Procedure.

1. Application. Where no Certificate of Zoning Compliance is required, applications for Certificates of Occupancy shall be filed in accordance with the requirements of Section 11-301 of this Article.

Where a Certificate of Zoning Compliance has been issued, the application for that Certificate shall also be treated as the application for a Certificate of Occupancy and shall be processed as such at such time as the applicant notifies the Village Manager in writing that the subject structure or use is ready for a Certificate of Occupancy in accordance with the Certificate of Zoning Compliance.

In any case where the structure or use involved has been constructed or established pursuant to any approval granted pursuant to this Code, the application shall be accompanied by "as built" plans depicting the structure or use as built and bearing the certificate of a surveyor, engineer, architect, land planner or owner-designer, as may be appropriate, certifying that the structure or use as built conforms in all respects to the approval granted.

2. Action on Application. Within ten (10) days following the receipt of a completed application, the Village Manager shall cause the subject structure or premises to be inspected and shall take on the following actions based on such inspection:
  - a) If all work has been completed and the structure and use thereof are in full and complete compliance with all applicable provisions of this Code, other relevant codes and ordinances of the Village, the applicant's plans as approved and any conditions attached to any approval issued pursuant to this Code, the Village Manager shall issue a Certificate of Occupancy;
  - b) If, however, all work is not complete or is in any manner not in full compliance with all applicable requirements, the Village Manager shall deny the application and shall inform the applicant in writing of the specific deficiencies on which such denial is based, citing the particular provisions of the codes and ordinances of the Village, the particular items in the applicant's plans or the applicable special approval conditions with respect to which compliance is lacking.

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3. Contents of Certificates. In addition to the matters required to be contained in a Certificate of Occupancy pursuant to other applicable provisions of the Northbrook Municipal Code, each Certificate of Occupancy issued pursuant to this Section 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.
  4. Filing of Certificates. Every Certificate issued pursuant to this Section shall be kept on file in the Office of the Village Manager and shall be a public record open to inspection pursuant to the provisions of the Illinois Freedom of Information Act.

11-402 E. Temporary Certificate of Occupancy. Notwithstanding the provisions of Paragraph D2 above, where construction, reconstruction, remodeling or alteration of a structure does not require the vacating of the structure, or where parts of the structure are finished and ready for occupancy before the completion of such construction, reconstruction, remodeling or alteration and are certified upon inspection to be safe for use or occupancy and to be in full compliance with all applicable provisions of this Code, other relevant codes and ordinances of the Village, the applicant's plans as approved and any conditions attached to any approvals issued pursuant to this Code with respect to such structure or its premises, a Temporary Certificate of Occupancy may be issued for a period not to exceed six (6) months from its date, which Temporary Certificate shall bear on its face, in bold type, a statement of its temporary nature; provided, however, that no such temporary certificate shall be issued pursuant to this Code unless said structure also qualifies for a Temporary Certificate of Occupancy issued pursuant to the Northbrook Building Code.

11-402 F. Certificate of Occupancy for Existing Uses. The Village Manager may issue a Certificate of Occupancy certifying the lawful existence and use of any existing structure or use in the same manner, and subject to the same standards and limitations, as authorized by this Section with respect to new structures and uses. Such Certificate shall be prima facie evidence of the facts contained in it with respect to any structure or use as of the date of its issue and remain effective for that purpose for so long as neither the use or structure nor the applicable provisions of this Code are changed.

11-402 G. Certificate of Occupancy for Legal Nonconformities. The Village Manager may issue a Certificate of Occupancy certifying the lawful existence and use of any nonconforming use, structure, lot or sign in the same manner, and subject to the same standards and limitations, as authorized by this Section with respect to new structures and uses and subject also to the additional standards and limitations set forth in Paragraph 10-101 E3 of this Code.

11-402 H. Void Certificates. Any Certificate of Occupancy 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.

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## 11-403 FLOOD PLAIN DEVELOPMENT PERMIT

11-403 A. Authority. The Village Manager is authorized to issue flood plain development permits in accordance with the National Flood Insurance Program and Section 18g of the Rivers, Lakes and Streams Act, 615 ILCS 5/18g, as amended, and 17 Ill Admin. Code Part 3708, as amended, enabling the Village of Northbrook to issue certain permits regulating the construction and the method, manner and extent of construction and other work undertaken within the flood plain. The Village Manager shall have the authority to issue flood plain development permits; provided, however, that no such permit shall be issued except in accordance with the provisions of this Section, the Flood Hazard Overlay District regulations, and all other regulations of the Village governing development, building and related matters.

11-403 B. Purpose. For the purpose of this Code, the flood plain development permit provides a procedure for ensuring that all development applications within the Village are reviewed to determine whether or not they are located within the flood plain; and to, further, make certain all development activities within the flood plain are approved, constructed and maintained in compliance with the National Flood Insurance Program of the Federal Emergency Management Agency, and in compliance with the Rivers, Lakes and Streams Act, 615 ILCS 5/4.9 et seq., as amended, and the regulations promulgated thereunder.

11-403 C. Flood Plain Development Permit Required. No person, firm, corporation, or governmental body, unless specifically exempted from regulation by applicable state and federal laws and regulations, shall commence any development in the flood plain without first obtaining a flood plain development permit from the Village Manager.

11-403 D. Procedure.

1. Application. Applications for a flood plain development permit shall be filed on a form approved by the Village Manager and shall be accompanied by all necessary flood plain engineering information, as specified in the Northbrook Standards and Specifications.
2. Professional Engineer Review. If the proposed development site is within a regulatory floodway or in a flood plain on which a detailed study has not been conducted that drains more than one (1) square mile, then the Village Manager shall refer the permit application to an Illinois Registered Professional Engineer (P.E.) under the employ of, or under contract with the Village for hydraulic and hydrologic review to ensure that the development meets the minimum requirements of this Code, including, without limitations, 17 Ill. Admin. Code Part 3708, as applicable. In the case of Appropriate Use, the P.E. shall state in writing that the development meets the requirements Section 8-207 of this Code.
3. Action on Application, Generally.

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- a) Determination of Flood Status. The Village Manager shall ensure that all proposed development sites within the Village are reviewed to determine whether they are within the Flood Hazard Overlay District or in a Special Flood Hazard Area (SFHA).
- b) Flood Plain Development Permit Required. In the event a development site is determined to be within the Flood Hazard Overlay District, a flood plain development permit must be issued by the Village Manager prior to commencing any development activity. The Village Manager, prior to issuing any such flood plain development permit, shall determine whether the site is in:

(1) A flood fringe area;

(2) A floodway; or

(3) A flood plain that drains more than one (1) square mile for which a detailed study has not yet been conducted.

If the site is within one of these areas, it shall meet all the requirements of this Code, and all other applicable requirements, including, without limitations, the Village Standards and Specifications for Public and Private Improvements, applicable to such area before a flood plain development permit is issued.

- (c) Review of Market Value of Construction. The Village Manager shall review all flood plain development permit applications prior to issuance of a permit to determine whether or not the proposed activity involves either:

(1) New construction;

(2) Substantial improvements; or

(3) Substantial damage, as defined in Section 8-211 of this Code.

- (d) Construction; Inspection Review. The Village Manager shall ensure that inspections are performed for all flood plain development projects before, during and after construction to ensure proper completion of any site improvements and proper elevation of the structure, including the lowest floor and lowest opening, and to ensure they comply with the provisions of this Code.

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4. State Review of Certain Permit Requests. Upon acceptance of the Flood Hazard Overlay District regulations and related provisions of this Code by IDNR/OWR, the review and approval of certain flood plain development activities has been delegated to the Village of Northbrook by the Illinois Department of Natural Resources, Office of Water Resources, pursuant to 17 Illinois Administrative Code 3708; however, the following types of development approvals have not been delegated to the Village of Northbrook and shall require IDNR/OWR review or permits:
- a) Development proposals in the flood plain by organizations that are exempt from review by local jurisdictions, in accordance with the Illinois Compiled Statutes.
  - b) IDNR/OWR projects, dams or impoundment structures, and all other state, federal or local unit of government projects, including projects of the Village and Cook or Lake County that are located in the flood plain that are deemed to require the review of a registered professional engineer, as specified in the Northbrook Standards and Specifications Manual.
  - c) A professional engineer's determination that an existing bridge or culvert crossing is not a source of flood damage in a regulatory floodway.
  - d) A professional engineer's analysis of the computed flood profile in a regulatory floodway.
  - e) Alternative transition sections and hydraulically equivalent compensatory storage areas in regulatory floodways.
  - f) Any changes in the mapped floodway or published flood profiles.
  - g) Base Flood Elevation determinations where none now exist.
  - h) Permit issuance of structures within, under, or over publicly navigable rivers, lakes and streams.
5. Other Permits or Approvals Required. In addition to Village and IDNR/OWR permits specifically referred to in this Section, proposed developments in the flood plain may require approvals or permits from other governmental agencies. Such agencies may include, but are not limited to: the Federal Emergency Management Agency; U.S. Army Corps of Engineers; and Cook or Lake County Highway Departments.

The Village Manager shall require the applicant to submit copies of all other local, state, and federal executed permits and approvals that may be required for the proposed flood

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plain development activity. The Village Manager shall not issue the flood plain development permit unless copies of all required federal, state and local, conditional or final, permits and "approved" plans have been submitted to the Village or, in the case of a development permit for a site located in a floodway, a permit or other official statement from IDNR/IOWR that a permit is not required from IDNR/IOWR, issued pursuant to 615 ILCS 5/4.9 et seq. No permit from IDNR/OWR shall be required if IDNR/OWR has delegated this responsibility to the Village.

6. Additional Procedures for Modification of Floodway or Base Flood Elevation.

- a) Conditional Letter of Map Revision. If a proposed flood plain development activity would result in a change in the regulatory floodway location or the base flood elevation, the applicant must obtain a Conditional Letter of Map Revision (CLOMR). The applicant shall submit transitional sections to the Village Manager for review and approval prior to submittal to IDNR/OWR and FEMA. An IDNR/OWR conditional approval of the regulatory floodway change must be secured before a flood plain development permit is issued.

The final regulatory floodway map will not be changed by FEMA and IDNR/OWR until "as-built" plans or "record drawings" with fill compaction certification are submitted and approved by the Village Manager and accepted by FEMA and IDNR/OWR. No filling, grading, dredging or excavating shall take place until a conditional approval is issued. No further development activities (building permit, foundation installations, etc.) shall take place until a Letter of Map Revision Based on Fill (LOMR-F) is issued by FEMA and IDNR/OWR.

- b) Modification of Floodway. After issuance of a flood plain development permit and a Conditional Letter of Map Revision, as necessary to change the regulatory floodway designation, site development activities may proceed; however, no uses other than "Appropriate Uses" in the floodway may be located in that area until the regulatory floodway map is changed and a final Letter of Map Revision is received. The regulatory floodway map will be revised upon acceptance of and concurrence by the Village Engineer, IDNR/OWR, and FEMA with the "as built" certified plans with soil fill compaction certification.

7. Dam Safety Permits and Requirements. Any work involving the construction, modification or removal of a dam as defined in Subsection 12-206 D for which a permit is required from the State of Illinois pursuant to the Rules for Construction of Dams, 17 Ill. Adm. Code 3702, shall obtain an Illinois Division of Water Resources dam safety permit prior to the start of construction of a dam and comply with all applicable requirements for such work.

11-403 E. General Criteria for Analysis of Flood Elevations.

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1. The flood profiles, flows and floodway data in the FEMA regulatory floodway study and other maps, studies and data referenced in Section 8-204 of this Code shall be used for analysis of the base conditions.
  2. If the study data appears to be in error or conditions have changed, the applicant shall contact IDNR/OWR for approval and concurrence on the appropriate minor modifications to the base conditions data used.
  3. If a party disagrees with the Village flood elevation data he or she may prepare, at his own cost and expense, an engineering study prepared in accordance with the Northbrook Standards and Specifications Manual, and submit the study to the Village Manager, IDNR/OWR and FEMA for review and approval.
  4. If the regulatory floodway elevation at the site of the proposed construction is affected by backwater from a downstream receiving stream with a larger drainage area, the proposed construction shall be shown to meet the requirements of this Code for the one hundred (100) year frequency flood elevations of the regulatory floodway and conditions associated with the receiving stream for normal water elevations.
  5. If the applicant learns from IDNR/OWR, county or local governments, or a private owner that a downstream restrictive bridge or culvert is scheduled to be removed, reconstructed, modified, or a regional flood control project is scheduled to be built, removed, constructed or modified within the next five (5) years, the proposed construction shall be analyzed and shown to meet the requirements of this Code for:
    - (a) The existing conditions, and
    - (b) The expected flood profile conditions when the bridge, culvert or flood control project is built.
  6. If a base flood elevation or one hundred (100) year frequency flood elevation is not available for a particular site, then the protection standard shall be according to the historical Storm/Flood of Record and the best existing data available from the Village and the ISWS's Flood Plain Information Repository.

11-403 F. Elevation and Floodproofing Certificates. The Village Manager shall, for all structures in the flood plain regulated by this Code, maintain permit and property files and make available for copying and public inspection, to the extent allowed by law:

1. FEMA Elevation Certificates specifying the elevation of the lowest floor (including basement) of a residential or non-residential building; and

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2. FEMA Floodproofing Certificates, specifying the elevation to which a non-residential building has been floodproofed.

11-403 G. Records for Public Inspection. The Village Manager shall maintain for public inspection and furnish upon request, to the extent allowed by law, base flood data, SFHA and regulatory floodway maps, copies of federal or state permit documents, variation documentation, Conditional Letter of Map Revision, Letter of Map Revision, Letter of Map Amendment and "as built" elevation and floodproofing or elevation certificates for all structures in or adjacent to the flood plain.

11-403 H. Cooperation with Other Agencies. The Village Manager shall cooperate with state and federal flood plain management agencies to periodically update and improve base flood or one hundred (100) year frequency flood event and floodway data and to improve the administration of this Article; submit data to IDNR/OWR and FEMA for proposed revisions of a regulatory flood map(s) within 6 months whenever a modification of the flood plain may change the base flood elevation or result in a change to the flood plain map; submit reports as required for the National Flood Insurance Program; and notify the Federal Emergency Management Agency of any proposed amendments to this Code and other municipal codes and regulations regarding development in flood plain areas.

11-403 I. Notification of Proposed Channel Modifications. For all flood plain development activities involving proposed channel modification, fill, or stream maintenance (including levees), the Village Manager shall notify the Village Clerk of the adjacent communities in writing thirty (30) days prior to the issuance of a flood plain development permit for the alteration, realignment, or relocation of the North Branch of the Chicago River watercourse, or its tributaries.

11-403 J. Penalties. In addition to the penalties established in Section 11-803 of this Code, the Village Manger shall inform the owner of a property in violation of the Flood Hazard Overlay District regulations that such violation is considered a willful act to increase flood damages and, therefore, may cause coverage by a Standard Flood Insurance Policy to be suspended.

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## **PART V -- INTERPRETATIONS, APPEALS, VARIATIONS AND EXCEPTIONS**

### **11-501 INTERPRETATIONS**

11-501 A. Authority. The Village Manager may, subject to the procedures, standards and limitations of this Section, render interpretations, including use interpretations, of the provisions of this Code and of any rule or regulation issued pursuant to it.

11-501 B. Purpose. The interpretation authority established by this Section 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 can, however, 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.

11-501 C. 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.

11-501 D. Procedure.

1. Application. Applications for interpretations of this Code shall be filed in accordance with the requirements of Section 11-301 of this Article.
2. Action on Application. Within 35 days following the receipt of a properly completed application for interpretation, the Village Manager shall inform the applicant in writing of his interpretation, stating the specific precedent, reasons and analysis upon which the determination is based.

The failure of the Village Manager to act within 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 35 day period.

3. Appeal. Appeals from interpretations rendered by the Village Manager may be taken to the Zoning Board of Appeals as provided in Section 11-502 of this Article.

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11-501 E. Standards for Use Interpretations. The following standards shall govern the Village Manager, and the Zoning Board of Appeals on appeals from the Village Manager, in issuing use interpretations:

1. No use interpretation shall be given with respect to the R-1 through R-8 Residential Districts.
2. Any use defined in Section 12-206 of this Code shall be interpreted as therein defined.
3. No use interpretation shall permit a use listed as a permitted or special permit use in any district to be established in any district in which such use is not so listed.
4. 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.
5. No use interpretation shall permit any use in a particular district unless such use is substantially similar to other uses permitted in such district and is more similar to such other uses than to uses permitted or specially permitted in a more restrictive district.
6. 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 permit for such use pursuant to Section 11-602 of this Article.
7. No use interpretation shall permit the establishment of any use that would be inconsistent with the statement of purpose of the district in question.
8. Subject to the foregoing conditions and limitations, in rendering use interpretations the Village Manager shall be guided by the Standard Industrial Classification Manual, as amended by the Village (see Appendix A) and the use classification methodology used therein.

11-501 F. 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, including, but not limited to, a Special Permit, a Certificate of Zoning Compliance, a Building Permit, a Certificate of Occupancy, Subdivision Approval and Site Plan Approval.

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11-501 G. Limitations on Favorable Use Interpretations. Subject to an extension of time granted by the Village Manager pursuant to Subsection 11-101 L of this Article, 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 months from 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 Certificate of Occupancy is obtained and a use 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 permit shall not be deemed to authorize any allegedly similar use for which a separate use interpretation has not been issued. Such permit 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 consecutive months or more.

**11-502 APPEALS**

11-502 A. Authority. Except as provided in Subparagraph 11-604 E1(d) of this Article 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 Manager acting pursuant to his authority and duties under this Code and to that end the Board of Appeals shall have the same powers and be subject to the same standards and limitations as the Village Manager with respect to any order, decision or determination being appealed.

11-502 B. 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 providing a local procedure for the review and correction of administrative errors. It is not, however, intended as a means to subvert either the clear purposes, intent or meaning of this Code or the rightful authority of the Village Manager to enforce this Code. To these ends, the reviewing body should give all proper deference to the spirit and language of this Code and to the reasonable interpretations of those charged with its administration.

11-502 C. Parties Entitled to Appeal. An application for appeal to the Zoning Board of Appeals may be filed by any person aggrieved or adversely affected by an order, decision, determination or failure to act of the Village Manager acting pursuant to his authority and duties under this Code.

11-502 D. Procedure.

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1. Application. An application for appeal to the Zoning Board of Appeals shall be filed not later than 45 days following the action being appealed and in accordance with the requirements of Section 11-301 of this Article.
  2. Action by Village Manager. Upon receipt of a properly completed application for an appeal, the Village Manager 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.
  3. Public Hearing. A public hearing shall be set, noticed and conducted by the Board of Appeals in accordance with Section 11-303 of this Article.
  4. Action by Board of Appeals. Within thirty (30) days following the close of the public hearing the Board of Appeals shall render a decision on the appeal in the manner and form specified in Subsection 11-103 C of this Article. 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 premises.

The failure of the Board to act within such thirty (30) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying the appeal.

11-502 E. Stay of Proceedings. An application for appeal properly filed pursuant to Subsection D above shall stay all proceedings in the furtherance of the action appealed from, unless the Village Manager certifies to the Zoning Board of Appeals after the application for appeal has been filed with the Manager that, by reason of facts stated in the certificate, a stay would, in the Manager'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 Manager and on due cause shown.

11-502 F. Right to Grant Variation in Deciding Appeals. In any case where the application for appeal is accompanied by an application for variation in accordance with Section 11-503 of this Article, the Zoning Board of Appeals shall have the authority to grant, as part of the relief, a variation but only in strict compliance with each provision of said Section 11-503.

11-502 G. 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.

## **11-503 VARIATIONS**

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11-503 A. Authority. The Zoning Board of Appeals, and, in the cases specified in Paragraph D4 of this Section, the Board of Trustees, shall have the authority to grant variations from the provisions of this Code, but only in compliance with the procedures set forth in Subsection D of this Section and in those specific instances enumerated in Subsection E of this Section and then only in accordance with each of the standards enumerated in Subsection F of this Section.

11-503 B. 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 XI, the variation procedure is necessarily inappropriate.

11-503 C. 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.

11-503 D. Procedure.

1. Application. Applications for variations shall be filed in accordance with the requirements of Section 11-301 of this Article.
2. Public Hearing. A public hearing shall be set, noticed and conducted by the Zoning Board of Appeals in accordance with Section 11-303 of this Article.
3. Action by Board of Appeals. Within 35 days following the close of the public hearing, the Zoning Board of Appeals shall render its decision, granting or denying the variation, in the manner and form specified by Subsection 11-103 C of this Article.

The failure of the Board to act within 35 days, or such further time to which the applicant may agree, shall be deemed to be a decision denying the variation.

4. Special Procedures in Connection With Other Applications. Whenever any other application is filed pursuant to this Code or the Northbrook Subdivision and Development Code (1991) as a companion to an application for a variation and such companion application requires final approval by the Board of Trustees, the authority to hear and decide the application for variation otherwise delegated to the Zoning Board of Appeals pursuant to this Section may, pursuant to the request of the applicant made at the time of the filing of the applicant's preliminary application, be reserved to the Board of Trustees. Whenever any application for a variation requires final approval by the Board of Trustees, the authority to hear and decide the application for variation shall be reserved to the Board of Trustees. For such purposes, the Board of Trustees shall have all of the authority granted to, and shall be subject to all of the limitations imposed on, the Zoning Board of Appeals by this Section; provided, however, that the provisions governing public notice and hearing of, and action on, the companion application or the

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provisions of Paragraphs D2 and D3 of this Section that provide the broadest public notice shall govern.

11-503 E. Authorized Variations.

1. Permitted Variations. Subject to the prohibitions set forth in Paragraph E2 below, and subject to the other provisions of this Section, the Zoning Board of Appeals may vary the provisions of this Code in the following cases and in no others; provided, however, that only the Board of Trustees may vary the provisions of this Code as provided in Subparagraphs E1(j), E1(m) and E1(n) below:
  - a) To reduce the dimension of any required yard or setback of a lot of record existing at the time that the application for the variation is submitted;
  - b) To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than 90 percent of the required area and width, and only on a lot of record existing at the time that the application for the variation is submitted;
  - c) To increase the maximum allowable height of any fence;
  - d) To reduce by not more than 25 percent, or one space, whichever is greater, the minimum number of off-street parking spaces or loading spaces otherwise required;
  - e) To increase by not more than one sign the maximum number of signs of any functional type otherwise allowed;
  - f) To allow illumination of residential recreational facilities;
  - g) To allow the moving of a pre-code structure to an extent or in a manner not permitted by Subsection 10-104 B of this Code;
  - h) To allow the otherwise prohibited restoration of a partially damaged or destroyed pre-code structure or structure devoted to a nonconforming use;
  - i) To allow yard variations in excess of those permitted by Section 10-105 of this Code in connection with the development of a legal nonconforming lot of record;

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- j) To permit the use of one or more residential lots otherwise prohibited solely because of the insufficient width of the lot or lots where:
- (1) The zoning lot is part of the proposed subdivision, the application for which is submitted concurrent with the application for variation;
  - (2) The width of the lots for which the variations is sought is not less than 75 percent of the required width;
  - (3) The area of the lots for which a variation is sought is not less than 115 percent of the required lot area;
  - (4) The creation of new lots does not increase the degree of nonconformity as to width that exists, if any, prior to the filing of the application for the proposed subdivision;
  - (5) Not less than 60 percent of the zoning lots on the frontage on which the proposed lots are located and the frontage opposite the frontage on which the proposed lots are located must be nonconforming as to lot width (excluding corner lots where the front lot line is not a part of the frontage); and
  - (6) When compared to the frontage on which the proposed lots are located and the frontage opposite the frontage on which the proposed lots are located, both of which frontages must be in the same zoning district, the proposed lot width for the lot or lots for which a lot width variation is sought shall be not less than the lot width of 60 percent of the lots on those frontages (excluding corner lots where the front lot line is not a part of the frontage).
- k) To increase, by not more than five (5) feet or not more than one (1) story or both, the maximum allowable height of a principal residential structure in the R-5 Single Family Residential District (provided that in no event shall the maximum allowable height with such a variation exceed 35 feet or three stories, whichever is less) where such structure meets all of the following conditions: (i) it is to be located in whole or in part in the flood plain, (ii) it is a replacement for a residential structure that was destroyed or damaged, by any means not within the control of the owner thereof, to the extent of fifty percent or more of the market value of the structure, (iii) it is a replacement for a residential structure that had a basement prior to such damage or destruction, and (iv) a basement cannot be constructed in the replacement structure because the lowest floor of such structure is required by this Code or other applicable law to be constructed at or above the base flood elevation.
- l) To reduce 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

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- 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.
- m) To increase the maximum height of an alteration to, or enlargement of, a principal single-family detached residential pre-code structure located in a single-family residential district authorized pursuant to Paragraph 10-104 B2 of this Code, but in no event to a height exceeding the otherwise applicable district height limitations.
  - n) To reduce the minimum number of off-street parking spaces required to serve a new non-residential use within a structure located within a Special Parking Area in the Village Green Overlay District.
  - o) To permit a reduction of the required lot width for property that is annexed to the Village pursuant to an annexation agreement that is duly authorized by the Corporate Authorities in the manner required by the Illinois Municipal Code.
  - p) To reduce the minimum total lot area required for a lot located in a Business Redevelopment District that has been designated by the Village.
2. Prohibited Variations. Notwithstanding any other provision of this Section, 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.

11-503 F. Standards for Variations.

- 1. General Standard. No variation shall be granted pursuant to this Section 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. Except as provided in Paragraph 11-503 F9, such a showing shall require proof that the variation being sought satisfies each of the standards set forth in Paragraphs 11-503 F1 through 11-503 F8.
- 2. Unique Physical Condition. The subject property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure or sign, whether conforming or nonconforming;

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irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.

3. Not Self-Created. The aforesaid unique physical condition is not the result of any action or inaction of the owner or his predecessors in title and existed at the time of the enactment of the provisions from which a variation is sought or was created by natural forces or was the result of governmental action, other than the adoption of this Code, for which no compensation was paid.
4. 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 property of substantial rights commonly enjoyed by owners of other lots subject to the same provision.
5. Not Merely Special Privilege. The alleged hardship or difficulty is not 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 an inability to make more money from the sale of the subject property; provided, however, that where the standards herein set out exist, the existence of an economic hardship shall not be a prerequisite to the grant of an authorized variation.
6. Code and Plan Purposes. The variation would not result in a use or development of the subject property that would not be 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.
7. Essential Character of the Area. The variation would not result in a use or development on the subject property that:
  - a) Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development value of property or improvements permitted in the vicinity;
  - b) Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity;
  - c) Would substantially increase congestion in the public streets due to traffic or parking;
  - d) Would unduly increase the danger of flood or fire;

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e) Would unduly tax public utilities and facilities in the area; or

f) Would endanger the public health or safety.

8. 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 property.

9. Standards for Parking Variations in the Village Green Overlay District. This Paragraph shall apply solely to any variation request permitted by Subparagraph 11-503 E1(n) that reduces the minimum number of off-street parking spaces required to serve a new non-residential use within a structure located within a Special Parking Area in the Village Green Overlay District. For such requests, the applicant shall only be required to establish that:

(a) The property or use possesses characteristics that are unique and do not generally apply to other properties or uses in the same zoning district or vicinity;

(b) All reasonable alternatives to comply with the required off-street parking standards have been exhausted; and

(c) The probable long-term occupancy of the building or structure, based on its design, will not generate additional parking demand.

11-503 G. 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.

11-503 H. Conditions on Variations. 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 the premises benefited 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 property or upon public facilities and services. Such conditions shall be expressly set forth in the resolution 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.

11-503 I. Affidavit of Compliance with Conditions; Fee. Whenever any variation authorized pursuant to this Section is made subject to conditions and limitations to be met by the applicant, the applicant shall upon meeting such conditions file an affidavit with the Village

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Manager so stating. Such affidavit shall be accompanied by a nonrefundable fee, to be fixed in each case by the Village Manager, to recover the Village's actual direct cost of an inspection to verify that such conditions and limitations have been met.

11-503 J. 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 approval that may be required by the Codes and Ordinances of the Village, including, but not limited to, a Certificate of Zoning Compliance, a Building Permit, a Certificate of Occupancy, Subdivision Approval and Site Plan Approval.

11-503 K. Limitations on Variations. Subject to an extension of time granted by the Village Manager or Board of Trustees pursuant to Subsection 11-101 L of this Article, no variation from the provisions of this Code shall be valid for a period longer than 180 days, and no variation from the provisions of this Code that is granted concurrently with a special permit shall be valid for a period longer than one year, unless a building permit is issued and construction has actually begun within that period and is thereafter diligently pursued to completion or unless a Certificate of Occupancy is issued and a use is commenced within that period. Variations granted pursuant to Subparagraph 11-503 E1(j) of this Article shall be valid for a period that is coterminous with the period that the tentative subdivision plat is valid under the Northbrook Subdivision and Development Code (1991), and shall be deemed final variations that run with the land only after recordation of a duly approved final subdivision plat.

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 months following such removal.

#### **11-504 VARIATIONS OF FLOOD HAZARD OVERLAY DISTRICT REGULATIONS**

11-504 A. Authority. The Zoning Board of Appeals, and, in the cases specified in Paragraph D4 of Section 11-503, the Board of Trustees, shall have the authority to grant variations from the provisions of the Flood Hazard Overlay District regulations, but only in compliance with the procedures set forth in Subsection D of this Section, and in those specific instances enumerated in Subsection E of this Section, and, then, only in accordance with the standards enumerated in Subsection F of this Section.

11-504 B. Purpose. The variation procedure is intended to provide a narrowly circumscribed means by which relief may be granted from the requirements in this Code governing development in the flood plain, consistent with the limitations of the National Flood Insurance Program and Illinois law.

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11-504 C. 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.

11-504 D. Procedure. Variations authorized herein shall be reviewed in accordance with the procedures established for other variations of this Code, as established in Section 11-503 D of this Article.

11-504 E. Authorized Variations.

1. Permitted Variations. When a development proposal is located outside of a regulatory floodway, and whenever the standards of this Code place undue hardship on a specific development proposal, the applicant may apply to the Village Manager for a variation. Developments outside of the regulatory floodway may obtain variations in the following cases:

- a) To obtain a variation of the compensatory storage requirements of this Code, provided that
  - i) the property is a lot of record existing at the time that the application for variation is submitted; and
  - ii) under no circumstances may a variation be granted that would reduce the compensatory storage volume required to less than 100% of the volume to be filled in;
- b) To allow other uses, developments, and methods and materials of construction within the flood fringe, in compliance with federal and Illinois law.

2. Prohibited Variations.

- a) No variations of the Flood Hazard Overlay District regulations shall be granted for any proposed development activity located in a regulatory floodway.
- b) No variation shall be granted that would otherwise be prohibited by Paragraph 11-503 E2 of this Article.

11-504 F. Standards for Variations of the Flood Hazard Overlay District Regulations.

- 1. An Illinois Registered Professional Engineer, with an understanding of hydraulic computerized methods, under the employ of or contract with the Village shall review the

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applicant's request for a variation, and shall submit to the Village Manager a recommendation concerning the application.

2. The "Variation and Exceptions" provisions established in 44 C.F.R. Section 60.6(a), as amended from time to time, shall be used as the general criteria by which all variation requests shall be reviewed.
3. The Village of Northbrook shall not grant any variation unless the applicant demonstrates that:
  - a) The development activity cannot be located outside the flood plain or SFHA;
  - b) An exceptional hardship would result if the variation were not granted;
  - c) The relief requested is the minimum necessary;
  - d) There will be no additional threat to public health, safety, beneficial stream uses and functions, especially aquatic habitat, or creation of a nuisance;
  - e) There will be no additional public expense for flood protection, lost environmental stream uses and functions, rescue or relief operations, policing, or repairs to stream beds and banks, roads, utilities, or other public facilities;
  - f) The provisions of Subsection 8-209 A related to the prevention of increased damage and Subsection 8-209 B related to the protection of public health shall still be met;
  - g) The activity is not in a regulatory floodway;
  - h) The applicant's circumstances are unique and do not represent a general problem or establish a pattern inconsistent with the intent of the NFIP;
  - i) The granting of the variation will not alter the essential character of the area involved including existing stream uses; and
  - j) All other required state and federal permits or waivers have been obtained.

11-504 G. Variation Standards for Historic Places. Variations requested in connection with restoration of a site or building listed on the National Register of Historical Places or documented as worthy of preservation by the Illinois Historic Preservation Agency may be granted using criteria more permissive than these requirements, provided that:

1. The repair or rehabilitation is the minimum necessary to preserve the historic character and design of the structure; and
2. The repair or rehabilitation will not result in the structure being removed as a designated historic structure.

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11-504 H. Variations 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.

11-504 I. Conditions on Variations. The Zoning Board of Appeals or Board of Trustees, as appropriate, may impose specific conditions and limitations as may be necessary or appropriate, in accordance with Subsection 11-503 H of this Article.

11-504 J. Affidavit of Compliance; Fee. An affidavit of compliance and requisite fee, in accordance with Subsection 11-503 I of this Article, shall be required for all variations authorized pursuant to this Section.

11-504 K. Effect of Granting Variation. The granting of a variation in accordance with this Section shall not authorize the establishment or extension of any use in the flood plain, nor the grading, development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation of applications for any permits and approvals that may be required by the codes and ordinances of the Village, including, but not limited to, a flood plain development permit, certificate of zoning compliance, a building permit, a certificate of occupancy, subdivision approval and site plan approval.

11-504 L. Limitations on Variations. Variations authorized in accordance with this Section shall be restricted to the period of time and other such limitations established in Subsection 11-503 K of this Article.

11-504 M. Notice; Acknowledgement by Applicant. When an application for a variation is filed in accordance with this Section, the Village Manager shall notify the applicant in writing that any variation from the requirements of this Section that would lessen the degree of protection to a building will:

1. Result in increased premium rates for flood insurance; and
2. Increase the risks to life and property.

The Village Manager shall require that the applicant proceed with knowledge of these risks and require that he will acknowledge in writing that he assumes the risk and liability.

## **11-505 EXCEPTIONS**

11-505 A. Authority. The Zoning Board of Appeals, and, in the cases specified in Paragraph D4 of this Section, the Board of Trustees, shall have the authority to grant exceptions from the provisions of this Code, but only in compliance with the procedures set forth in Subsection D of this Section and in those specific instances enumerated in Subsection E of this Section and then only in accordance with each of the applicable standards enumerated in Subsection F of this Section.

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11-505 B. Purpose. The exception procedure is intended to establish a procedure for the Village to consider requests to modify specific zoning regulations that cannot, by their nature, reasonably be considered by using the variation standards established in this Code.

11-505 C. Parties Entitled to Seek Exceptions. Applications for exceptions may be filed by the owner of, or any person having a contractual interest in, the subject property.

11-505 D. Procedure.

1. Application. Applications for exceptions shall be filed in accordance with the requirements of Section 11-301 of this Article.
2. Public Hearing. A public hearing shall be set, noticed and conducted by the Zoning Board of Appeals in accordance with Section 11-303 of this Article.
3. Action by Board of Appeals. Within 35 days following the close of the public hearing, the Zoning Board of Appeals shall render its decision, granting or denying the exception, in the manner and form specified by Subsection 11-102C of this Article. The failure of the Board to act within 35 days, or such further time to which the applicant may agree, shall be deemed to be a decision denying the exception.
4. Special Procedures in Connection With Other Applications. Whenever any other application is filed pursuant to this Code or the Northbrook Subdivision and Development Code (1991) as a companion to an application for an exception and such companion application requires final approval by the Board of Trustees, the authority to hear and decide the application for exception otherwise delegated to the Zoning Board of Appeals pursuant to this Section may, pursuant to the request of the applicant made at the time of the filing of the applicant's preliminary application, be reserved to the Board of Trustees. Whenever any application for a exception requires final approval by the Board of Trustees, the authority to hear and decide the application for exception shall be reserved to the Board of Trustees. For such purposes, the Board of Trustees shall have all of the authority granted to, and shall be subject to all of the limitations imposed on, the Zoning Board of Appeals by this Section; provided, however, that the provisions governing public notice and hearing of, and action on, the companion application or the provisions of Paragraphs D2 and D3 of this Section that provide the broadest public notice shall govern.

11-505 E. Authorized Exceptions. Subject to the prohibitions set forth in Paragraph E2 below, and subject to the other provisions of this Section, the Zoning Board of Appeals may grant exceptions to the provisions of this Code in the following cases and in no others:

1. To increase the maximum allowable height of a fence in a Single Family Residential District; and
2. To increase, by not more than eight (8) feet the maximum allowable height of a detached garage in a Single Family Residential District.

11-505 F. Standards for Exceptions.

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1. General Standard. No exception shall be granted pursuant to this Section unless the applicant shall establish that the exception being sought satisfies each of the standards set forth below:
    - a) Consistent With Code and Plan Purposes. The proposed exception 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.
    - b) No Undue Adverse Impact. The proposed exception will not have a substantial or undue adverse effect upon adjacent property, the character of the area or the public health, safety and general welfare.
    - c) Compatible with Surrounding Area. The proposed exception 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.
    - d) Adequate Public Facilities. The proposed exception 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.
    - e) No Traffic Congestion. The proposed exception will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets.
    - f) No Destruction of Significant Features. The proposed exception will not result in the destruction, loss or damage of natural, scenic or historic feature of significant importance.
    - g) Compliance with Standards. The proposed exception otherwise complies with all additional standards imposed on it by the particular provision of this Code.
    - h) Quality Design & Construction. The proposed exception demonstrates high quality design and uses construction materials and colors that are compatible with other structures on the property and other properties in the vicinity.
  2. Specific Standards for Individual Exception Requests. In addition to the general standards for exceptions established in Paragraph 11-505F1, the following additional standards must be satisfied, as applicable:
    - a) Additional Standards for Fence Height Exceptions.
      - (1) No fence shall be installed that would cause a safety hazard with pedestrians on sidewalks or bicyclists or other vehicles on the nearby roadways and intersections.
      - (2) The materials used for the fence must be compatible with those in the surrounding area. In general, the use of solid fences or “cyclone” fences are discouraged.

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- (3) If the fence incorporates a gate system, the design and location the gate must not cause vehicles to block the roadway when waiting for the gate system to open. No gate shall open onto a public right-of-way.
  - (4) The specifications of any gate system incorporated into a fence shall be subject to the review and approval of the Village Manager to ensure that emergency vehicles have safe and proper access to the property at all times.

b) Additional Standards for Detached Garage Height Exceptions.

- (1) Any detached garage which receives a height exception pursuant to Paragraph 11-505 E2 of this Section shall be designed and constructed to be consistent with the architectural features of the principal structure on the property.

11-505 G. Exception Less Than Requested. An exception less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to all of the relief requested.

11-505 H. Conditions on Exceptions. 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 the premises benefited by an exception 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. Such conditions shall be expressly set forth in the resolution granting the exception. Violation of any such condition or limitation shall be a violation of this Code and shall constitute grounds for revocation of the exception.

11-505 I. Affidavit of Compliance with Conditions; Fee. Whenever any exception authorized pursuant to this Section is made subject to conditions and limitations to be met by the applicant, the applicant shall upon meeting such conditions file an affidavit with the Village Manager so stating. Such affidavit shall be accompanied by a nonrefundable fee, to be fixed in each case by the Village Manager, to recover the Village's actual direct cost of an inspection to verify that such conditions and limitations have been met.

11-505 J. Effect of Grant of Exception. The granting of an exception 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 approval that may be required by the Codes and Ordinances of the Village, including, but not limited to, a Certificate of Zoning Compliance, a Building Permit, a Certificate of Occupancy, Subdivision Approval and Site Plan Approval.

11-505 K. Limitations on Exceptions. Subject to an extension of time granted by the Village Manager or Board of Trustees pursuant to Subsection 11-101 L of this Article, no exception from the provisions of this Code shall be valid for a period longer than 180 days, and no exception from the provisions of this Code that is granted concurrently with a special permit shall be valid for a period longer than one year, unless a building permit is issued and construction has actually begun within that period and is thereafter diligently pursued to completion or unless a Certificate of Occupancy is issued and a use is commenced within that period.

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An exception 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 months following such removal.

## **PART VI -- AMENDMENTS AND SPECIAL APPROVALS**

### **11-601 AMENDMENTS**

11-601 A. Authority. This Code and 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.

11-601 B. Purpose. The amendment process established by this Section 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 Zoning Map in light of changing, newly discovered or newly important conditions, situations or knowledge.

11-601 C. 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.

11-601 D. Procedure.

1. Preliminary Consideration.

a) Preliminary Application. A preliminary application for an amendment to this Code or the Zoning Map shall be filed in accordance with the requirements of Paragraph 11-301 E1 of this Article.

b) Referral to Board. Every properly filed and completed preliminary application for an amendment to this Code or the Zoning Map shall, before being processed in any other manner, be referred to the Board of Trustees pursuant to Subsection 11-301 A3 of this Article.

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- c) Action by Board. The Board of Trustees shall, not later than the first regular Village Board meeting after the preliminary application has been referred to it, commence and conclude its review of the preliminary application.

The purpose of such review shall be to broadly acquaint the Village Board with the applicant's proposal and to provide the applicant with any preliminary views or concerns that members of the Board may have at a time in the process when positions are still flexible and adjustment is still possible and prior to the time when the applicant is required to expend the funds necessary to prepare the complete documentation required for a formal application.

At the meeting at which the preliminary application is considered, any member of the Board of Trustees may make any comments, suggestions or recommendations regarding the preliminary application deemed necessary or appropriate by that member; provided, however, that no final or binding action shall be taken with respect to any preliminary application. Any views expressed in the course of the Board's review of any preliminary application shall be deemed to be only preliminary and advisory and only the individual views of the member expressing them. Nothing said or done in the course of such review shall be deemed to create, or to prejudice, any rights of the applicant or to obligate the Village Board, or any member of it, to approve or deny any formal application following full consideration thereof as required by this Code.

- d) Specified Public Bodies Exempt. Amendments proposed by the Board of Trustees, the Plan Commission or the Zoning Board of Appeals shall not be subject to the provisions of this Subsection.

## 2. Formal Consideration.

- a) Formal Application. Subsequent to the Board of Trustees' review and consideration of the preliminary application, but in no event more than six months thereafter, a formal application for an amendment to this Code or the Zoning Map shall be filed in accordance with the requirements of Paragraphs 11-301 A3 and 11-301 E6 of this Article for a Code amendment and 11-301 E8 of this Article for a map amendment. Except as expressly provided otherwise herein, no formal application for an amendment to this Code shall be filed unless the Board of Trustees shall have first reviewed a preliminary application for such amendment in accordance with Paragraph D1 of this Section.
- b) Board Referral. Every properly filed and completed formal application for an amendment to this Code or the Zoning Map shall be referred by the Board of

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Trustees to the Village Manager for further referral in accordance with Paragraph 11-303 C2 of this Article. The failure of the Board of Trustees to act on a properly filed and completed formal application within 30 days of the Board's receipt thereof shall be deemed to be a decision to refer the application pursuant to this Subparagraph.

- c) Public Hearing. In any case where a formal application for an amendment to this Code or the Zoning Map is referred by the Board of Trustees pursuant to Subparagraph D-2(b) of this Section, a public hearing shall be set, noticed, and conducted by the Plan Commission in accordance with Section 11-303 of this Article.
- d) Action by Plan Commission. Within 21 days following the conclusion of the public hearing, the Plan Commission shall transmit to the Board of Trustees its recommendation in the form specified by Subsection 11-103 C of this Article.
- e) The failure of the Commission to act within 21 days following the conclusion of such hearing, or such further time to which the applicant may agree, shall be deemed a recommendation for the approval of the proposed amendment as submitted.
- f) Action by Board of Trustees; Protest. Within sixty (60) days following 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 in the event a duly signed and acknowledged protest against a proposed amendment is filed with the Village Clerk 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 the Board of Trustees.
- g) The failure of the Board of Trustees to act within sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying the application.

11-601 E. Standard for Amendments. The wisdom of amending the Zoning Map or the text of this Code is a matter committed to the 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 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 should weigh the factors that Paragraph 11-301 E8 requires the applicant to address.

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## 11-602 SPECIAL PERMITS

11-602 A. Authority. The Board of Trustees may, in accordance with the procedures and standards set out in this Section and by ordinance duly adopted, grant special permits authorizing the development of uses listed as special permit uses in the regulations applicable to the district in which the subject property is located.

11-602 B. Purpose. Special permit uses are those uses having some special impact or uniqueness that require 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.

11-602 C. Parties Entitled to Seek Special Permits. An application for a special permit may be filed by the owner of, or any person having a contractual interest in, the subject property.

11-602 D. Procedure.

1. Preliminary Consideration.

- a) Preliminary Application. A preliminary application for a special permit shall be filed in accordance with the requirements of subsection 11-301 E1 of this Article.
- b) Referral to Board. Every properly filed and completed preliminary application for a special permit shall, before being processed in any other manner, be referred to the Board of Trustees pursuant to Subsection 11-301 A3 of this Article.
- c) Action by Board. The Board of Trustees shall, not later than the first regular Village Board meeting after the preliminary application has been referred to it, commence and conclude its review of the preliminary application.
- d) The purpose of such review shall be to broadly acquaint the Village Board with the applicant's proposal and to provide the applicant with any preliminary views or concerns that members of the Board may have at a time in the process when positions are still flexible and adjustment is still possible and prior to the time when the applicant is required to expend the funds necessary to prepare the complete documentation required for a formal application.

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- e) At the meeting at which the preliminary application is considered, any member of the Board of Trustees may make any comments, suggestions or recommendations regarding the preliminary application deemed necessary or appropriate by that member; provided, however, that no final or binding action shall be taken with respect to any preliminary application. Any views expressed in the course of the Board's review of any preliminary application shall be deemed to be only preliminary and advisory and only the individual views of the member expressing them. Nothing said or done in the course of such review shall be deemed to create, or to prejudice, any rights of the applicant or to obligate the Village Board, or any member of it, to approve or deny any formal application following full consideration thereof as required by this Code.
  - f) Specified Public Bodies Exempt. Special permits proposed by the Board of Trustees, the Plan Commission or the Zoning Board of Appeals shall not be subject to the provisions of this Subsection.

2. Formal Consideration.

- a) Formal Application. Subsequent to the Board of Trustees' review and consideration of the preliminary application, but in no event more than six months thereafter, a formal application for a special permit shall be filed in accordance with the requirements of Paragraphs 11-301 A3 and 11-301 E7 of this Article. Except as expressly provided otherwise herein, no formal application for a special permit shall be filed unless the Board of Trustees shall have first reviewed a preliminary application for such special permit in accordance with Paragraph D-1 of this Section.
- b) Board Referral. Every properly filed and completed formal application for a special permit shall be referred by the Board of Trustees to the Village Manager for further referral in accordance with Paragraph 11-303 C2 of this Article. The failure of the Board of Trustees to act on a properly filed and completed application within 30 days of the Board's receipt thereof shall be deemed to be a decision to refer the application pursuant to this Subparagraph.
- c) Public Hearing. In any case where a formal application for a special permit is referred by the Board of Trustees pursuant to Subparagraph D-2(b) of this Section, a public hearing shall be set, noticed and conducted by the Plan Commission in accordance with Section 11-303 of this Article.
- d) Action by Plan Commission. Within 21 days following conclusion of the public hearing, the Plan Commission shall transmit to the Board of Trustees its recommendation in a form specified by Subsection 11-103 C of this Article, recommending either granting the application for a special permit; granting the application subject to conditions, as specified in Subsection F below; or denying the application.

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The failure of the Plan Commission to act within 21 days, or such further time to which the applicant may agree, shall be deemed a recommendation for the approval of the proposed special permit.

- e) Action by Board of Trustees; Protest. Within sixty (60) days following 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, shall grant the special permit, with or without modifications or conditions; provided, however, that in the event a duly signed and acknowledged protest against the proposed special permit is filed with the Village Clerk by the owners of twenty percent (20%) or more of the frontage to be affected by the proposed special permit, 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 ordinance shall not be adopted except by a two-thirds vote of the Board of Trustees.

11-602 E. Standards for Special Permits.

1. General Standards. No special permit shall be recommended or granted pursuant to this Section unless the applicant shall establish that:
  - a) 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.
  - b) No Undue Adverse Impact. The proposed use, drainage and development will not have a substantial or undue adverse effect upon adjacent property, the character of the area or the public health, safety and general welfare.
  - c) No 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.
  - d) 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.

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- e) No Traffic Congestion. The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets.
  - f) No Destruction of Significant Features. The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic feature of significant importance.
  - g) 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.
2. Special Standards for Specified Special Permit Uses. Where the district regulations authorizing any special permit use in a particular district impose special standards to be met by such use in such district, a permit for such use in such district shall not be recommended or granted unless the applicant shall establish compliance with such special standards.
3. Considerations. In determining whether the applicant's evidence establishes that the foregoing standards have been met, the Plan Commission shall consider:
- a) 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; and
  - b) 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.

11-602 F. Conditions; Periodic Review; Term.

- 1. Conditions on Special Permits. In order to prevent or minimize substantial or undue adverse effects upon neighboring and adjacent properties and improvements, substantial or undue or upon public facilities and services, the Plan Commission may recommend , and the Board of Trustees may impose, and expressly include in the ordinance granting a special permit, conditions and limitations upon the premises benefited by a special permit. Such conditions, restrictions, and limitations may include, without limitation, the following:
  - a) limitations and restrictions of the use of the subject property;

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- b) restrictions on construction activity that will occur on and around the subject property;
  - c) conditions concerning the character and design of the proposed use and development;
  - d) the location of the use within the subject property;
  - e) the provision of landscaping and screening, with specificity as to design, quantity, quality, size and location;
  - f) restrictions on the hours of operation of the use;
  - g) a requirement that the subject property be developed and used in strict accordance with a site plan that is attached to the ordinance granting the special permit; and
  - h) any other matters relating to the purposes and objectives of this Code.

- 2. Violation of Conditions. Violation of any of the conditions imposed pursuant to Paragraph 11-602 F1 of this Code shall be a violation of this Code and shall constitute grounds for revocation of the special permit.
- 3. Periodic Review. The Plan Commission may recommend, and the Board of Trustees may impose, a requirement that the special permit be publicly reviewed periodically pursuant to and in accordance with such procedures as are set forth in the ordinance granting the special permit. In every instance, such procedures shall provide the applicant with advance notice of, and an opportunity to be heard at, such periodic review.
- 4. Term of Special Permit. Because of the unique operational nature, and potential unknown adverse impacts, of certain special permit uses, the Plan Commission may recommend, and the Board of Trustees may impose, a term limitation on the duration of certain special permit uses. Such term limitation shall (a) be set forth in the ordinance granting the special permit and (b) shall be subject to renewal in accordance with Subsection 11-602 K of this Code.

11-602 G. Affidavit of Compliance With Conditions; Fee. Whenever any special permit granted pursuant to this Section is made subject to conditions or limitations to be met by the applicant, the applicant shall, upon meeting such conditions, file an affidavit with the Village Manager so stating. Such affidavit shall be accompanied by a nonrefundable fee, to be

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fixed in each case by the Village Manager, to recover the Village's actual direct cost of an inspection to verify that such conditions and limitations have been met.

11-602 H. Effect of Issuance of a Special Permit. The granting of a special 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, including but not limited to, a Certificate of Zoning Compliance, a Building Permit, a Certificate of Occupancy and subdivision approval.

11-602 I. Limitations on Special Permits. Subject to an extension of time granted by the Village Manager pursuant to Subsection 11-101 L of this Article, no special permit shall be valid for a period longer than one year unless a building permit is issued and construction is actually begun within that period and is there-after diligently pursued to completion or unless a Certificate of Occupancy is issued and a use commenced within that period. A special 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. Except when otherwise provided in the Ordinance granting a special permit, a special permit shall be deemed to relate to, and be for the benefit of, the current owner or operator of the use or lot in question rather than to the lot itself.

11-602 J. Amendments to Special Permits. A special permit may be amended, varied or altered only pursuant to the procedures and subject to the standards and limitations provided in this Section 11-602 for its original approval.

11-602 K. Renewal of Special Permits. The Board of Trustees may, in accordance with the procedures and standards set out in this Subsection, consider requests for renewal of special permits. An application for the renewal of a special permit must be filed by the party to whom a special permit was granted, or a permitted successor thereto or assignee thereof, and must be filed prior to the date on which the term of the special permit is scheduled to expire. The Board of Trustees may consider such request at a public hearing following notice pursuant to Subparagraph 11-303 B3 (c) of this Code. The Board of Trustees may, but shall have no obligation to, seek the recommendation of another board or commission of the Village prior to such consideration. In the event that the party requesting such renewal demonstrates, to the satisfaction of the Board of Trustees, that the standards and circumstances under which the special permit was originally approved have not materially changed, then the Board of Trustees shall, by ordinance duly adopted, renew the special permit for the same period of time for which the special permit was first valid. In the event that the Board of Trustees determines that the standards and circumstances under which the special permit was originally approved have materially changed, the Board of Trustees shall have no obligation to renew the special permit.

### **11-603 PLANNED DEVELOPMENTS**

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11-603 A. Authority. The Board of Trustees may, in accordance with the procedures and standards set out in this Section, and by ordinance duly adopted, grant special permits authorizing the development of planned developments, but only in the districts where such developments are listed as an authorized special permit use.

11-603 B. Purpose. Planned developments are included in this Code as a distinct category of special permit use. As such, they are authorized 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 regulations, which may be useful in protecting the character of substantially developed and stable areas, may impose inappropriate pre-regulations and rigidities 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:

1. Creation of a more desirable environment than would be possible through strict application of other Village land use regulations.
2. Promotion of a creative approach to the use of land and related physical facilities resulting in better design and development, including aesthetic amenities.
3. Preservation and enhancement of desirable site characteristics such as natural topography, vegetation and geologic features, and the prevention of soil erosion.
4. Combination and coordination of architectural styles, building forms, and building relationships.
5. Provision for the preservation and beneficial use of open space.
6. An increase in the amount of open space over that which would result from the application of conventional subdivision and zoning regulations.
7. Encouragement of land uses that promote the public health, safety and general welfare.

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11-603 C. Parties Entitled to Seek Planned Development Approval. An application for special permit to permit a planned development may be filed by the owner of, or any person having a contractual interest in, the subject property.

11-603 D. Procedure.

1. Preliminary Consideration.

- a) Preliminary Application. A preliminary application for a special permit to permit a planned development shall be filed in accordance with the requirements of Subsection 11-301 E1 of this Article.
- b) Referral to Board. Every properly filed and completed preliminary application for a special permit to permit a planned development shall, before being processed in any other manner, be referred to the Board of Trustees pursuant to Subsection 11-301 A3 of this Article.
- c) Action by Board. The Board of Trustees shall, not later than the first regular Village Board meeting after the preliminary application has been referred to it, commence and conclude its review of the preliminary application.

The purpose of such review shall be to broadly acquaint the Village Board with the applicant's proposal and to provide the applicant with any preliminary views or concerns that members of the Board may have at a time in the process when positions are still flexible and adjustment is still possible and prior to the time when the applicant is required to expend the funds necessary to prepare the complete documentation required for a formal application.

At the meeting at which the preliminary application is considered, any member of the Board of Trustees may make any comments, suggestions or recommendations regarding the preliminary application deemed necessary or appropriate by that member; provided, however, that no final or binding action shall be taken with respect to any preliminary application. Any views expressed in the course of the Board's review of any preliminary application shall be deemed to be only preliminary and advisory and only the individual views of the member expressing them. Nothing said or done in the course of such review shall be deemed to create, or to prejudice, any rights of the applicant or to obligate the Village Board, or any member of it, to approve or deny any formal application following full consideration thereof as required by this Code.

2. Development Concept Plan.

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- a) 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. In order 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:
- (1) Categories of uses to be permitted;
  - (2) General location of residential and nonresidential land uses;
  - (3) Overall maximum density of residential uses and intensity of nonresidential uses;
  - (4) General architectural style of the proposed development;
  - (5) General location and extent of public and private open space, including recreational amenities;
  - (6) General location of vehicular and pedestrian circulation systems;
  - (7) Staging of development; and
  - (8) Nature, scope and extent of public dedications, improvements or contributions to be provided by the applicant.
- b) Application. Subsequent to the Board of Trustees' review and consideration of the preliminary application, but in no event more than six months thereafter, a formal application for approval of a Development Concept Plan shall be filed in accordance with the requirements of Paragraphs 11-301 A3 and 11-301 E9 of this Article. No application for approval of a Development Concept Plan shall be filed unless the Board of Trustees shall have first reviewed a preliminary application for a special permit to permit a planned development in accordance with Paragraph D1 of this Section.
- c) Board Referral. Every properly filed and completed application for approval of a Development Concept Plan shall be referred by the Board of Trustees to the Village Manager for further referral in accordance with Paragraph 11-303 C2 of this Article. The failure of the Board of Trustees to act on a properly filed and completed

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application within thirty (30) days of the Boards receipt thereof, shall be deemed to be a decision to refer the application pursuant to this Subparagraph.

d) Public Hearing. In any case where an application for approval of a Development Concept Plan is referred by the Board of Trustees pursuant to Subparagraph D2(c) of this Section, a public hearing shall be set, noticed and conducted by the Plan Commission in accordance with Section 11-303 of this Article.

e) Action by Plan Commission. Within 21 days following the conclusion of the public hearing, the Plan Commission shall transmit to the Board of Trustees its recommendation, in the form specified by Subsection 11-103 C of this Article that the Development Concept Plan either be approved, be approved subject to modifications, or not be approved.

The failure of the Plan Commission to act within 21 days, or such further time to which the applicant may agree, shall be deemed a recommendation for the approval of the Development Concept Plan as submitted.

f) Action by Board of Trustees. Within sixty (60) days following 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 for approval of the Development Concept Plan; shall remand it back to the Plan Commission for further consideration of specified matters; or shall, by resolution duly adopted, approve the Development Concept Plan, with or without modifications and conditions to be accepted by the applicant as a condition of such approval, and refer the matter to the Plan Commission for processing of the Final Plan in accordance with Paragraph D4 this Section.

g) The failure of the Board of Trustees to act within 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.

h) Coordination With Subdivision Ordinance. When a subdivision of land subject to the Northbrook Subdivision Ordinance is proposed in connection with a planned development, review of the tentative plat of the proposed subdivision shall be carried out simultaneously with review of the Development Concept Plan.

3. Optional Submission of Final Plan. The applicant may, at his option, submit a Final Plan for the proposed planned development pursuant to the requirements of Paragraph D4 below simultaneously with the submission of the Development Concept Plan pursuant to the requirements of Paragraph D1 above. In such case, the applicant shall comply with all provisions of this Code applicable to submission of the Development Concept Plan and to submission of the Final Plan. The Plan Commission and the Village Board shall

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consider such plans simultaneously and shall grant or deny Final Plan approval in accordance with the provisions of Paragraph D4 below.

4. Final Plan.

- a) 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.
- b) Application. Upon approval of the Development Concept Plan, the applicant shall file an application for Final Plan approval in accordance with the requirements of Paragraph 11-301 E10 of this Article. The application shall refine, implement and be in substantial conformity with the approved Development Concept Plan.
- c) Public Meeting. A public meeting shall be set, noticed and conducted by the Plan Commission in accordance with Section 11-303 of this Article.
- d) Coordination With Subdivision Ordinance. When a subdivision of land subject to the Northbrook Subdivision Ordinance is proposed in connection with a planned development, review of the final plat of the proposed subdivision shall be carried out simultaneously with review of the Final Plan.
- e) Phasing of Final Plan Approval. An application for Final Plan approval may include the entire area included in the approved Development Concept Plan or one or more phases, stages or units thereof; provided, however, that the following matters must be addressed and provided in the first phase, stage or unit submitted for Final Plan approval:
  - (1) All public improvements required or proposed for the entire area included in the approved Development Concept Plan.
  - (2) All open space required or proposed for the entire area included in the approved Development Concept Plan.
  - (3) All land dedications required or proposed for the entire area included in the approved Development Concept Plan.
  - (4) The payment of all fees required by this Code.

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f) Action by Plan Commission.

- (1) Evaluation. Within sixty (60) days following the filing of an application for approval of a Final Plan, the Plan Commission shall, with such aid and advice of such Village staff and consultants as may be appropriate, review and act on the plan. Such review shall consider:
- (i) Whether the Final Plan is in substantial conformity with the approved Development Concept Plan;
  - (ii) The merit or lack of merit of any departure of the Final Plan from substantial conformity with the approved Development Concept Plan;
  - (iii) Whether the Final Plan complies with any and all conditions imposed by approval of the Development Concept Plan; and
  - (iv) Whether the Final Plan complies with the provisions of this Code and all other applicable federal, state and Village codes, ordinances and regulations.
- (2) 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 plan to the Board of Trustees with its recommendation, in the form specified in Subsection 11-103 C of this Article, that the Board approve the Final Plan, with or without modifications and conditions to be accepted by the applicant as a condition of approval.
- (3) Recommendation of Denial. In any case where 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 in any case where it requires modifications of a plan that are not accepted by the applicant, the Plan Commission shall transmit the plan to the Board of Trustees together with its recommendation and specific reasons in support of its recommendation, in the form specified in Subsection 11-103 C of this Article, that the Final Plan not be approved.
- (4) Failure to Act. The failure of the Plan Commission to act within the 60 day period specified in Subparagraph D4(f)(1) of this section, 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.

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- g) Action by Board of Trustees. Within sixty (60) days following the receipt of the recommendation of the Plan Commission, or its failure to act as above provided, the Board of Trustees shall take action in accordance with the following Paragraphs:
- (1) Approval Based on Substantial Conformity. If the Plan Commission has recommended approval of a Final Plan pursuant to Subparagraph D3(e)(2) of this Section, 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 by a duly adopted ordinance.
  - (2) Approval Notwithstanding Plan Commission Recommendation of Denial. If the Plan Commission has recommended denial of a Final Plan pursuant to Subparagraph D3(e)(3) of this Section, 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 by a duly adopted ordinance.
  - (3) Referral Back to Plan Commission. In any case other than that specified in Subparagraph D3(f)(1) above, the Board of Trustees may refer the Final Plan back to the Plan Commission for further consideration of specified matters.
  - (4) Conditions on Final Plan Approval. The approval of any Final Plan may, in addition, be granted, with or without modifications and conditions to be accepted by the applicant as a condition of approval.
  - (5) Failure to Act. The failure of the Board of Trustees to act within sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying Final Plan approval.
- h) Recording of Final Plan. When a Final Plan is approved, the Village Manager shall cause the Final Plan, or the portions thereof as are appropriate, to be recorded with the Recorder of Deeds of Cook County.
- i) Limitation on Final Plan Approval. Construction shall commence in accordance with the approved Final Plan within one year after the approval of such 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 Manager pursuant to Subsection 11-101 L of this Article, automatically render void the Final Plan approval and all approvals of the planned development and all permits based on such approvals, and the Village Manager shall, without further direction, initiate an appropriate application to revoke the special permit for all portions of the Planned Development that have not yet been completed.

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- j) Building and Other Permits. Appropriate officials of the Village may, upon, but not before, receiving notice from the Village Manager 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, in addition to this Code, that are applicable to the permit sought have been satisfied.

Building permits may, however, be withheld at the discretion of the Village Manager 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.

11-603 E. Standards for Planned Developments.

1. Special Permit Standards. No special permit for a planned development shall be recommended or granted pursuant to this Section unless the applicant shall establish that the proposed development will meet each of the standards made applicable to special permit uses pursuant to Subsection 11-602 of this Article.
2. Additional Standards for All Planned Developments. No special 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:
  - a) 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 tract shall be deemed a violation as to all owners and all tracts.
  - b) Minimum Area. The district regulations of this Code establishing standards for particular types of planned development specify the minimum area required for same planned development. In addition to meeting that specific standard, or where no specific standard is set, the applicant shall have the burden of establishing that the subject property is of sufficient size and 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.
  - c) Covenants and Restrictions to be Enforceable by Village. All covenants, deed restrictions, easements and similar restrictions to be recorded in connection with the

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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.

d) 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 of the Village 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 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.

e) Common Open Space.

(1) Amount, Location and Use. The failure of a planned development to provide common open space shall be considered to be an indication that it has not satisfied the objectives for which such 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.

(2) 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.

(3) Ownership and Maintenance. The Final Plan shall include such provisions for the ownership and maintenance of such open space and improvements as are reasonably necessary to ensure their continuity, care, conservation, maintenance and operation in accordance with predetermined 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.

(4) Property Owners' Association. When the requirements of the preceding Subparagraph are to be satisfied by the ownership or maintenance of such open

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space or improvements by a property owners' association, such association shall meet each of the following standards:

- (i) The by-laws and rules of the association and all declarations, covenants and restrictions to be recorded must be approved as part of the Detailed Plan prior to becoming effective. Each such document shall provide that it shall not be amended in any manner that would result in it being in violation of the requirements of this Subparagraph.
- (ii) The association must be established and all covenants and restrictions recorded prior to the sale of any property within the area of the planned development designated to have the exclusive use of the proposed open space or improvements.
- (iii) The association must be responsible for casualty and liability insurance, taxes, and the maintenance of the open space and improvements to be deeded to it.
- (iv) Membership in the association must be mandatory for each property owner, and any successive owner, having a right to the use or enjoyment of such open space or improvements.
- (v) Every property having a right to the use or enjoyment 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.
- (vi) The association must have the right to adjust the assessment to meet changed needs. The membership vote required to authorize such adjustment shall not be fixed at more than 51 percent of the members voting on the issue.
- (vii) The Village must be given the right to enforce the covenants.
- (viii) The Village must be given the right, after ten 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. For this purpose alone, the Village shall have all the rights and powers of the association and its governing body under the agreements and declarations creating the association.

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f) Landscaping and Perimeter Treatment. Any area of a planned development not used for structures or circulation elements shall be landscaped or otherwise improved. 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 manmade 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 applicable yard required in the district in which it is located.

g) Private Streets. Private streets shall be permitted in a planned development provided that:

(1) Said streets shall be treated as public streets and rights of way for purposes of all setbacks, yards and calculations under this Code.

(2) Said streets shall be owned and maintained by a property owners' association meeting the requirements set forth in Subparagraph E2(e)(4) above; and

(3) A covenant shall be recorded against the subject property acknowledging that the Village shall at no time be under any obligation to provide maintenance for or accept dedication of said streets.

(h) Utilities. All utility lines shall be installed underground.

3. Additional Standards for Specific Planned Developments. Where 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.

11-603 F. Conditions on Planned Development Approvals. The approval of either a Development Concept Plan or a Final Plan may be conditioned on such matters as the approving body 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 Ordinance and the Official Comprehensive Plan. Such conditions shall be expressly set forth in the ordinance or resolution 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.

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11-603 G. Affidavit of Compliance With Conditions; Fee. Whenever any planned development approval granted pursuant to this Section is made subject to conditions or limitations to be met by the applicant, the applicant shall, upon meeting such conditions, file an affidavit with the Village Manager so stating. Such affidavit shall be accompanied by a nonrefundable fee, to be fixed in each case by the Village Manager, to recover the Village's actual direct cost of an inspection to verify that such conditions and limitations have been met.

11-603 H. Regulation During and Following Completion of Development. Following Final Plan approval, in the event of an express conflict between the provisions of the Final Plan and this Code, the Final Plan shall control. This Code shall control in all other instances.

11-603 I. Inspections During Development.

1. Inspections by Village Manager. Following approval of the Final Plan of a planned development, or any stage thereof, the Village Manager shall, at least annually until the completion of development, review all permits issued and construction undertaken and compare actual development with the approved plans for development and with the approved development schedule.
2. Action by Village Manager. If the Village Manager 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 Manager 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.
3. Action by Board of Trustees. Within sixty (60) days following notification by the Village Manager, the Board of Trustees shall either:
  - a) Take such steps as it deems necessary to compel compliance with the Final Plan; or
  - b) Require the owner or applicant to seek an adjustment to the Final Plan as provided in Subsection K of this Section.

11-603 J. Adjustments to Final Plan During Development.

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1. Minor Adjustments. During the development of a planned development, the Village Manager 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:
    - a) Altering the location of any one structure or group of structures by not more than 5 feet or one-fourth 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;
    - b) Altering the location of any circulation element by not more than five (5) feet or one-fourth of the distance shown on the approved Final Plan between such circulation element and any structure, whichever is less;
    - c) Altering the location of any open space by not more than twenty (20) feet;
    - d) Altering any final grade by not more than ten percent (10%) of the originally planned grade; and
    - e) Altering the location or type of landscaping elements.
    - f) Such minor adjustments 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.
  2. Major Adjustments. Any adjustment to the Final Plan not authorized by Paragraph J1 above 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 may refer the request to the Plan Commission for further hearing, review and recommendation.

11-603 K. Amendments to Final Plan Following Completion of Development. After completion of a planned development, an approved Final Plan may be amended, varied, or altered only pursuant to the procedures and subject to the standards and limitations provided in this Section 11-603 for approval of the planned development.

#### **11-604 SITE PLAN REVIEW**

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11-604 A. Authority. Except in the cases of uses and developments requiring a special permit pursuant to the provisions of this Code, the Village Manager may, as a matter of original jurisdiction and in accordance with the procedures and standards set out in this Section, grant site plan approval to uses and developments requiring such approval pursuant to Subsection C of this Section. In case of uses and developments requiring a special permit pursuant to Section 11-602 or Section 11-603 of this Code, and in cases of appeal from a denial of approval by the Village Manager, the Board of Trustees may, by ordinance duly adopted, grant site plan approval in accordance with the procedures and standards set out in this Section.

11-604 B. Purpose. The site plan review 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 to provide a vehicle for the review of the developer's attention to such elements.

11-604 C. Site Plan Review Required.

1. Village Manager Review. Site plan review by the Village Manager in accordance with this Section shall be required in connection with the following developments:
  - a) Any development or redevelopment, other than for one single family detached dwelling unit, involving a parcel under single ownership or control having an area in excess of 40,000 square feet.
  - b) Any development or redevelopment involving the construction of any new structure or structures having a gross floor area in excess of 20,000 square feet, a floor area ratio in excess of 0.25 or a height of more than three stories.
  - c) Any development or redevelopment involving an existing structure having a floor area in excess of 20,000 square feet, a floor area ratio in excess of 0.25, or a height in excess of three stories that would alter any such measure by more than 25 percent of such amount.
  - d) Any development or redevelopment involving the creation or expansion of a parking lot or garage or a loading space.
  - e) Any nonresidential development on a lot abutting or across a right of way from any residential district.
  - f) Any development or redevelopment in a Redevelopment Overlay District.

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g) Any development or redevelopment involving a personal wireless services antenna, with or without an antenna support structure, that is not a special permit use.

2. Board of Trustees Review. Site plan review by the Board of Trustees in accordance with this Section shall be required in connection with development or redevelopment for which this Code requires a special permit, including planned development approval; in all cases involving Village SIC No. 4900.02 (Electrical Substations); and may be sought in any case of a denial of site plan approval by the Village Manager.

11-604 D. Parties Entitled to Seek Site Plan Approval. Application for site plan review may be filed by the owner of, or any person having a contractual interest in, the subject property.

11-604 E. Procedure.

1. Village Manager Approvals.

a) Application. Applications for site plan approval by the Village Manager shall be filed in accordance with the requirements of Section 11-301 of this Article.

b) Action by Village Manager. Within 30 days following receipt by the Village Manager of a properly completed application, the Village Manager shall cause such application and the attached site plan to be reviewed, in terms of the standards established by Subsection F of this Section, by appropriate members of his staff. He shall then either: (1) approve the site plan as submitted; (2) on the basis of written findings in accordance with Subsection F below, approve it subject to specific modification; or (3) on the basis of such written findings, deny approval of the site plan.

Immediately upon concluding his review, the Village Manager shall return one copy of the site plan to the applicant marked to show either approval, approval subject to modification, which modification shall be clearly and permanently marked on such plans, or denial of approval. The Village Manager shall maintain a similarly marked set of such plans in his files for any further processing that may be required.

The failure of the Village Manager to act within said thirty (30) days, or such further time to which the applicant may agree, shall be deemed to be a decision approving the site plan as submitted.

c) Effect of Village Manager's Action. The action of the Village Manager in approving a site plan or in approving a site plan subject to modifications that are acceptable to

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the applicant shall constitute a final administrative action and shall not be subject to further review by, or appeal to, any Village Board or Commission.

The action of the Village Manager in denying an application for site plan approval or in approving a site plan subject to modifications 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 approval of the site plan from the Board of Trustees by way of the appeal procedure set forth below.

- d) Appeals. Within 45 days following a denial of site plan approval by the Village Manager, the applicant may seek approval of the site plan by filing an application for appeal to the Board of Trustees in accordance with the requirements of Section 11-301 of this Article. Any such appeal shall be processed in accordance with the provisions of Paragraph E2 below.

2. Board of Trustees Approvals: Original and Appellate.

- a) Application. Applications for site plan approval by the Board of Trustees, whether as a matter of its original or its appellate jurisdiction shall be filed in accordance with the requirements of Section 11-301 of this Article. In cases where review is sought by way of an appeal of a denial of site plan approval by the Village Manager, the application for appeal shall be filed within 45 days following such denial.
- b) Action by Village Manager in Appeal Cases. Upon receipt of a properly completed application for an appeal of a denial of site plan approval by the Village Manager, the Manager shall forthwith transmit to the Board of Trustees the application for appeal, the original application for site plan approval, all papers constituting the record upon which the Manager's denial was based and a copy of the Manager's decision denying the application for site plan approval.
- c) Public Meeting. A public meeting shall be set, noticed and conducted by the Board of Trustees in accordance with Section 11-303 of this Article.
- d) Action by Board of Trustees. Within 35 days following the conclusion of the public meeting, the Board of Trustees shall, by ordinance duly adopted, either approve the site plan as submitted, make modifications acceptable to the applicant and approve such modified site plan or approve or disapprove it in the manner hereinafter specified.

The failure of the Board to act within sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying site plan approval.

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11-604 F. Standards for Site Plan Disapproval.

1. Standards. The Village Manager and the Board of Trustees shall not disapprove a site plan submitted pursuant to this Section except on the basis of specific written findings directed to one or more of the following standards:
  - a) The application is incomplete in specified particulars or contains or reveals violations of this Code or other applicable regulations that the applicant has, after written request, failed or refused to supply or correct.
  - b) The application is 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.
  - c) The site plan fails to adequately meet specified standards required by this Code with respect to the proposed use or development, including special permit use standards where applicable.
  - d) The proposed site plan interferes with easements or rights-of-way.
  - e) The proposed site plan is unreasonably injurious or detrimental to the use and enjoyment of surrounding property.
  - f) The proposed site plan creates undue traffic congestion or hazards in the public streets, or the circulation elements of the proposed site plan unreasonably create hazards to safety on or off site or disjointed or inefficient pedestrian or vehicular circulation paths on or off site.
  - g) The screening of the site does not provide adequate shielding from or for nearby uses.
  - h) The proposed site plan creates unreasonable drainage or erosion problems or fails to fully and satisfactorily integrate the site into the overall existing and planned drainage system serving the Village.
  - i) The proposed site plan places unwarranted or unreasonable burdens on specified utility systems serving the site or area or fails to fully and satisfactorily integrate site utilities into the overall existing and planned utility systems serving the Village.

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j) The proposed site plan does not provide for required public uses designated on the Official Map.

k) The proposed site plan otherwise adversely affects the public health, safety or general welfare.

2. Alternative Approaches. In citing any of the foregoing standards, other than those of Subparagraphs 1(a) and 1(b), as the basis for disapproving a site plan, the Village Manager or the Board of Trustees may suggest alternate site plan approaches that could be developed to avoid the specified deficiency or may state the reasons why such deficiency cannot be avoided consistent with the applicant's objectives.

11-604 G. Effect of Site Plan Approval. Approval of a site 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, including, but not limited to, a Certificate of Zoning Compliance, a Building Permit, a Certificate of Occupancy and Subdivision Approval.

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

11-604 H. Limitations on Site Plan Approval. Subject to an extension of time granted by the Village Manager pursuant to Subsection 11-101 L of this Article, no site plan approval shall be valid for a period longer than one 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 Certificate of Occupancy is issued and a use commenced within that period.

11-604 I. Adjustments to Site Plan During Development.

1. Site Plans Approved by the Village Manager. During the development of the site, the Village Manager shall have authority to authorize any adjustment to a site plan approved by him that he could have authorized in the course of his original review.

2. Site Plans Approved by the Village Board.

- a) Minor Adjustments. During the development of the site, the Village Manager may authorize minor adjustments to a site plan originally approved by the Village Board 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:

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- (1) Altering the location of any one structure or group of structures by not more than 5 feet or one-fourth 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.
  - (2) Altering the location of any circulation element by not more than five (5) feet or one-fourth of the distance shown on the approved site 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 ten percent (10%) of the originally planned grade.
  - (5) Altering the location or type of landscaping elements.

Such minor adjustments 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.

- b) Major Adjustments. Any adjustment to a site plan originally approved by the Village Board that is not authorized by Subparagraph 2(a) above 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.

11-604 J. 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 the original approval of site plans.

## **11-605 DESIGN REVIEW**

11-605 A. Authority. The Board of Trustees, in accordance with the procedures and standards set out in this Section and by ordinance duly adopted, may grant Design Review Permit approval; provided, however, that no such permit shall be granted unless such use or development complies with the regulations of the district in which it is located and all necessary certificates, permits, and approvals for such use or development shall have been secured.

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11-605 B. Purpose. The Design Review Permit process is intended to provide a procedure for the review of plans to ensure that the use and development requiring design review approval will comply with standards established to preserve the integrity of areas and structures which have been determined to merit special protection.

11-605 C. Parties Entitled to Seek Design Review Permits. An application for a Design Review Permit may be filed by the owner of, or any person having a contractual interest in, the subject property.

11-605 D. Procedure.

1. Application. Applications for a Design Review Permits shall be filed in accordance with the requirements of Section 11-301 of this Code. Applications will be forwarded to the Plan Commission for special permit and variation approvals and to the Architectural Control Commission for construction approvals.
2. Other approvals required prior to approval. In any case where the proposed work requires the issuance of a special permit, variation, or other approval, no Design Review Permit shall be granted unless and until such special permit, variation, or other approval has been issued. The issuance of any such other approval shall not be deemed to establish any right to the issuance of a Design Review Permit.
3. Public meeting. A public meeting shall be set, noticed, and conducted by the Plan Commission or the Architectural Control Commission, whichever is applicable, pursuant to Subparagraph 11-303B3(a) of this Code.
4. Action by Plan Commission or Architectural Control Commission. Within 35 days following the conclusion of the public meeting provided in Subsection E3 of this Section, the Plan Commission or Architectural Control Commission, whichever is applicable, shall, in writing, recommend to the Board of Trustees to grant the Design Review Permit without modification, grant the Design Review Permit with modifications or subject to conditions, or deny the Design Review Permit. In reaching its recommendation, the Plan Commission or Architectural Control Commission, whichever is applicable, shall be guided by the purposes for which the Village Green Overlay District is designated and by the particular standards and considerations set forth in Subsection E of this Section. The failure of the Plan Commission or Architectural Control Commission, whichever is applicable, to act within 35 days, or such longer period of time as may be agreed to by the applicant, shall be deemed a recommendation to deny the Design Review Permit.

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5. Action by Board of Trustees. Within 35 days after receiving the recommendation of the Plan Commission or the Architectural Control Commission, or if the Plan Commission or Architectural Control Commission fails to act within 35 days following the conclusion of the public meeting provided in Subsection E3 of this Section, within seventy (70) days following the conclusion of such public meeting, the Board of Trustees shall, by ordinance duly adopted, grant the Design Review Permit without modification, grant the Design Review Permit with modifications or subject to conditions, or deny the Design Review Permit. The failure of the Board of Trustees to act within the time limits set in this Subsection, or such longer period of time as may be agreed to by the applicant, shall be deemed a denial of the Design Review Permit. In reaching its decision, the Board of Trustees shall be guided by the purposes for which the Village Green Overlay District is designated and by the particular standards and considerations set forth in Subsection E of this Section.
  
  6. Issuance of certificate. If a Design Review Permit is granted pursuant to this Section, the Village Manager, within seven days following the passage of the ordinance by the Board of Trustees pursuant to Subsection E5 of this Section, shall issue the Design Review Permit, noting thereon any modifications or conditions imposed by the Board of Trustees. Each Design Review Permit shall state on its face, in bold type, that:

THIS PERMIT DOES NOT SIGNIFY ZONING, BUILDING CODE, OR  
SUBDIVISION REVIEW OR APPROVAL AND HOLDER IS NOT AUTHORIZED  
TO UNDERTAKE ANY WORK WITHOUT SUCH REVIEW AND APPROVAL  
WHERE REQUIRED.

11-605 E. Standards and Considerations for Design Review Permit. In passing upon applications for Design Review Permits, the Plan Commission, the Architectural Control Commission, and the Board of Trustees, as the case may be, shall consider and evaluate the propriety of issuing the Design Review Permit, all in as expeditious a manner as possible. In addition, the Plan Commission, the Architectural Control Commission, and the Board of Trustees, as the case may be, shall be guided by the following standards and considerations:

1. General Building Design and Relation to Street and Pedestrians: All building designs shall be evaluated under the following guidelines, as well as the way in which the design relates to the street on which the subject building is, or is proposed to be, located:
  - a). Height, Bulk, Scale and Massing: Overall height and massing of proposed buildings and structures shall be modulated to reduce the appearance of height and bulk.

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- b). Roof-lines: Roof-lines shall be designed to generate visual interest.
  - c). Facade: Architectural details in building facades shall provide visual interest and be generally compatible with surrounding buildings and properties.
  - d). Proportion of openings: The size and number of openings (windows, doors, etc.) shall be proportionate to the overall facade.
  - e). Rhythm of entrance porch and other projections. The scale of entrances and other projections shall be designed to relate proportionately to sidewalks and pedestrians.
  - f). Open spaces. The quality and location of the open spaces between buildings and in setback spaces between the street and façade shall be suitably located in relation to the street, other open spaces and pedestrian ways.
2. Visual compatibility. Visual compatibility shall be considered and reviewed in terms of the following guidelines.
- a). Height. The height of proposed buildings and structures as it relates to adjacent buildings.
  - b). Materials. The quality of materials and their relationship to those in existing adjacent structures.
  - c). Proportion of front facade. The relationship of the width to the height of the front elevation shall be visually compatible with buildings, public ways, and places to which it is visually related.
  - d). Proportion of openings. The relationship of the width to the height of windows shall be visually compatible with buildings, public ways, and places to which the building is visually related.
  - e). Rhythm of solids to voids in front facades. The relationship of solids to voids in the front facade of a building shall be visually compatible with buildings, public ways, and places to which it is visually related
  - f). Rhythm of spacing and buildings on streets. The relationship of a building or structure to the open space between it and adjoining buildings or structures

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shall be visually compatible with the buildings, public ways, and places to which it is visually related.

- g). Relationship of materials and texture. The relationship of the materials and texture of the facade shall be visually compatible with the predominant materials used in the buildings and structures to which it is visually related.
  - h). Roof shapes. The roof shape of a building shall be visually compatible with the buildings to which it is visually related.
  - i). Walls of continuity. Building facades and appurtenances such as walls, fences, and landscape masses shall, when it is a characteristic of the area, form cohesive walls of enclosure along a street to ensure visual compatibility with the buildings, public ways, and places to which such elements are visually related.
  - j). Scale of building. The size and mass of buildings and structures in relation to open spaces, windows, door openings, porches, and balconies shall be visually compatible with the buildings, public ways, and places to which they are visually related.
3. Overall Site Design and Landscaping. The overall site design shall be reviewed in terms of the quality of the following elements:
- a). Landscaping and screening: Parking lots, unsightly equipment and service areas shall be screened from public view by means of landscaping, fencing, and/or other means of screening.
  - b). Lighting: Exterior lighting shall be architecturally integrated with building style, material and color, and shall not be directed off site.
  - c). Parking: Automobile access, servicing of the property, and impact on vehicular traffic patterns and conditions on-site and in the vicinity of the site, and the retention of trees and shrubs to the maximum extent possible shall also be reviewed.
4. Special considerations for existing buildings. For existing buildings, the Plan Commission, Architectural Control Commission, and the Board of Trustees shall consider the availability of materials, technology, and craftsmanship to duplicate existing styles, patterns, textures, and overall detailing.

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5. Manuals and guidelines. The Plan Commission or Architectural Control Commission may, from time to time, provide for specific manuals or guidelines for architectural styles or common-occurring buildings or site features and elements to assist applicants for Design Review Permits. Such manuals or guidelines shall be advisory only and shall bind neither the applicant nor the Plan Commission, Architectural Control Commission, or the Board of Trustees with respect to any specific case.

6. Design criteria for signs.

a). Visual compatibility. The proposed sign shall be visually compatible with the building on which the sign is proposed to be located, as well as with surrounding buildings and structures in terms of height, size, proportion, scale, materials, texture, colors, and shapes.

b). Quality of design and construction. The proposed sign shall be constructed and maintained with a design and materials of high quality and good relationship with the design and character of the neighborhood.

c). Appropriateness to activity. The proposed sign shall be appropriate to, and necessary for, the activity to which it pertains.

d). Appropriateness to site. The proposed sign shall be appropriate to its location in terms of design, landscaping, and orientation on the site, and will not create a hazard to pedestrian or vehicular traffic, detract from the value or enjoyment of neighboring properties, or unduly increase the number of signs in the area.

11-605 F. Modifications and Conditions. In approving an application for a Design Review Permit, the Board of Trustees may, by resolution duly adopted, authorize the issuance of the Design Review Permit for plans as submitted, or on condition that specified modifications in such plans be made, or on any other condition deemed necessary to achieving the purposes and objectives of this Section. Such conditions and modifications shall be set forth in the resolution granting approval and in the Design Review Permit. The violation of any such condition or modification shall be a violation of this Code.

11-605 G. Limitation on Permits. A Design Review Permit shall become null and void 12 months after the date on which it was issued unless, within such period, the work authorized by such permit is commenced. A Design Review Permit shall relate solely to the work shown on plans approved by the issuance of such 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.

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## **PART VII -- SETTLEMENT OF LITIGATION**

### **11-701 AUTHORITY**

Notwithstanding any other provisions of this Code, the Board of Trustees may grant zoning approvals in connection with the settlement of litigation or pending against the Village subject only to the provisions of this Part; provided, however, that this Part shall not apply to actions seeking administrative review of any final decision of the Zoning Board of Appeals.

### **11-702 PURPOSE**

The authority conferred on the Board of Trustees pursuant to this Part is conferred in recognition of the fact that, when the Village is involved in litigation concerning the exercise of its powers under this Code, unique factors are sometimes brought into play. It is the ultimate responsibility of the elected governing body of the Village to assess the impact of those factors on the land use decision involved and to make a decision based upon the overall public good, other than actions seeking administrative review of any final decision of the Zoning Board of Appeals.

### **11-703 POWERS**

For the purpose of settling pending litigation on terms deemed by it to be most advantageous to the Village, the Board of Trustees shall have the power to grant any approval authorized by this Code or to modify or vary the provisions of this Code as they apply to the property which is the subject of such litigation.

### **11-704 PROCEDURE**

Before exercising its powers under Section 11-703, the Board of Trustees shall set, notice and conduct a hearing in accordance with Section 11-303 of this Article. No other procedure shall be required.

All action taken pursuant to this Part shall be evidenced by an ordinance duly adopted. The concurrence of four members of the Board shall be sufficient to approve any ordinance adopted pursuant to the authority and power granted by this Part.

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## **PART VIII – ENFORCEMENT AND PENALTIES**

### **11-801 GENERAL ENFORCEMENT AUTHORITY AND DUTY**

Upon finding the existence of any violation of this Code, the Village Manager shall have the authority and duty to take or direct all actions necessary or appropriate to punish and abate such violation.

### **11-802 CIVIL AND ADMINISTRATIVE ENFORCEMENT**

11-802 A. Stop and Cease-and-Desist Orders. Upon finding the existence of any violation of this Code, the Village Manager shall notify, in writing, the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it; specifically, the Manager shall order the discontinuance of any illegal use of land or structures; the removal of illegal structures, additions or alterations; and the discontinuance of illegal work being done.

11-802 B. Legal Actions. In the enforcement of this Code, the Village Manager shall exercise all the powers authorized by the statutes of the State of Illinois and the codes and ordinances of this Village to ensure compliance with, or to prevent or abate any violation of, the provisions of this Code, and in particular, shall, where necessary or appropriate, institute or cause to be instituted by the Village Attorney in the name of the Village of Northbrook any and all actions, legal or equitable, including appeals, that may be required for the enforcement of this Code.

11-802 C. Abatement; Liens. Where authorized by state statute, the Village Manager may order any work necessary to abate any violation of this Code and shall assess the cost of such work to the property owner. Upon the failure of the owner to pay such cost, the Manager shall file a lien for such costs, and for all costs of collection, against the property in question.

11-802 D. Revocation of Permits. The violation of any provision of this Code, or of any permit or approval granted pursuant to it, or of any condition imposed pursuant to it shall be grounds for the revocation of any rezoning, permit, variation or approval granted pursuant to this Code and affecting the property involved in the violation. The Village Manager may recommend and the Board of Trustees may order such revocation; provided, however, where the original rezoning permit, variation or approval was granted following a public hearing required pursuant to this Code, the revocation shall be preceded by a similar hearing.

11-802 E. Fines. In the enforcement of this Code, the Village Manager shall, where necessary and appropriate, order the issuance and enforcement of citations to recover fines and penalties for the violation of this Code as authorized by state law and this Code.

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**11-803 PENALTIES**

Any person who shall violate, disobey, omit, neglect or refuse to comply with, or who shall resist enforcement of, any provision of this Code shall be subject to a fine of not less than \$200 nor more than \$500 for each offense; provided, however, that, if service of summons is made by certified mail pursuant to Illinois Revised Statutes Chapter 24, Section 1-2-9.1, the maximum fine shall not exceed \$200 for each offense. Each day a violation continues to exist shall constitute a separate offense.

**11-804 PRIVATE REMEDIES PRESERVED**

Nothing in this Part shall be interpreted to prevent any person entitled to relief in law or equity by reason of a violation of the provisions of this Code from bringing an appropriate action to secure such relief.