

COMMUNITY DEVELOPMENT COMMISSION

Village of Bensenville

VILLAGE HALL

September 25, 2017 6:00 PM

**** Special Meeting ****

- I. Call Meeting to Order
- II. Roll Call and Quorum
- III. Pledge of Allegiance
- IV. Public Comment
- V. Approval of Minutes
- VI. Action Items:
 - 1. Zoning Steering Committee - Module 1 Review
- VII. Report from Community and Economic Development
- VIII. Adjournment

Any individual with a disability requiring a reasonable accommodation in order to participate in a Community Development Commission Meeting should contact the Village Clerk, Village of Bensenville, 12 S. Center Street, Bensenville, Illinois, 60106 (630-350-3404)

TYPE:Presentation**SUBMITTED BY:**K. Pozsgay**DEPARTMENT:**CED**DATE:**09.25.17**DESCRIPTION:**Zoning Steering Committee - Module 1 Review**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:****REQUEST:**

Provide feedback

SUMMARY:

CMAF will present the Steering Committee with an overview of the project to date and a review of Module 1 of the zoning rewrite.

RECOMMENDATION:**ATTACHMENTS:**

Description

Upload Date

Type

Module 1 Steering Committee Draft**9/18/2017****Backup Material**

Steering Committee Draft

Title 10: Zoning Regulations

Village of Bensenville

Part 1: August 22, 2017

Steering Committee Draft

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CHAPTER 1: TITLE AND APPLICABILITY

- § 10-1-1 Title
- § 10-1-2 Authority and Purpose
- § 10-1-3 Applicability
- § 10-1-4 Transition Rules
- § 10-1-5 Interpretation
- § 10-1-6 Enforcement
- § 10-1-7 Severability
- § 10-1-8 Effective Date

§ 10-1-1 Title

This Title 10 of the Village of Bensenville Municipal Code of Ordinances as amended shall be known, referred to, and cited as the “Village of Bensenville Zoning Ordinance,” “Zoning Ordinance,” or “Ordinance.”

§ 10-1-2 Authority and Purpose

The provisions of this Ordinance are adopted pursuant to the authority granted to the Village by the Illinois Municipal Ordinance. The purposes of this Zoning Ordinance are many, but foremost among these purposes are to:

- A. Protect and promote the health, safety, comfort, convenience, and general welfare of the public.
- B. Ensure adequate light, air, open space, privacy, and access to property.
- C. Implement the goals and objectives of the Village’s Comprehensive Plan and the other land use policies of the Village.
- D. Maintain and promote orderly land use patterns and development.
- E. Facilitate the provision of adequate public services and infrastructure.
- F. Protect the Village’s quality of life and the character of its neighborhoods by ensuring that development is compatible and cohesive.
- G. Protect and enhance the taxable value of land, buildings, and structures.
- H. Promote development that sustainably manages environmentally sensitive issues.
- I. Define the responsibilities of the Village’s administrative bodies and establish procedures for the effective use of the provisions of this Ordinance.

§ 10-1-3 Applicability

- A. Jurisdiction. This Ordinance applies to all land, uses, and structures within the corporate limits of the Village of Bensenville. In addition, the subdivision regulations of **Title 11 (Subdivision Regulations)** apply to any unincorporated areas located within one and one-half miles of Village limits.

Commented [JS1]: Bensenville: To Do List

- Repeal Appearance Code
- Move duties of Community Development Commission (§ 10-3-1.A) to Title 2 (Boards and Commission) of the Municipal Code.
- Move §10-3A-5.A.2.a re “neighborhood and village-wide organizations that have filed with the director of community development” to the application form, rather than including it in the Ordinance.
- Move standards regarding Building Permit and Certificate of Occupancy (§ 10-3-2 (Permits and Certificates)) to Chapter 2: Building Code.

- B. General Applicability. The provisions of this Ordinance shall be interpreted and applied as the minimum requirements for the protection and promotion of the health, safety, comfort, convenience, and general welfare of the public to achieve the purposes for which this Ordinance was adopted.
- C. General Prohibition. No structure, use of any structure or land, or lot of record or zoning lot shall be established, enlarged, extended, altered, moved, divided, or maintained in any manner contrary to the provisions of this Ordinance.
- D. Private Agreements. This Ordinance is not intended to nullify any easement, covenant, or other private agreement. In cases where this Ordinance is more restrictive than a private agreement, this Ordinance shall control. The Village shall not enforce any private agreements.
- E. Other Laws and Regulations. Unless specifically stated, this Ordinance shall control over less restrictive ordinances, regulations, and statutes, while more restrictive ordinances, regulations, and statutes shall control over the provisions of this Ordinance. The more restrictive provision is the provision that imposes more stringent controls.

§ 10-1-4 Transition Rules

The following transition rules shall apply in determining the applicability of this Ordinance with respect to the previously applicable zoning regulations.

- A. Existing Illegal Uses, Structures, and Lots. Any use, structure, or lot that was established illegally as of the effective date of this Ordinance, or its subsequent amendments, shall remain illegal if it does not conform with the requirements of this Ordinance.
- B. Permitted Uses Rendered Special Uses. If a use was classified as a permitted use prior to the effective date of this Ordinance, and is classified as a special use as of the effective date of this Ordinance, or its subsequent amendments, that use shall be deemed a lawful special use. Any subsequent addition, enlargement, or expansion of that use shall conform to this Ordinance's requirements for special uses.
- C. Special Uses Rendered Permitted Uses. If a use was classified as a special use prior to the effective date of this Ordinance, and is classified as a permitted use as of the effective date of this Ordinance, or its subsequent amendments, that use shall be deemed a lawful permitted use. Any subsequent addition, enlargement, or expansion of that use shall conform to this Ordinance's requirements for such permitted use and is no longer subject to the special use ordinance under which it was originally approved.
- D. Uses Rendered Legally Nonconforming. If a use was classified as a permitted or special use prior to the effective date of this Ordinance, and this Ordinance no longer classifies that use as either a permitted or special use in the zoning district in which it is located, that use shall be deemed a legal nonconforming use and shall be controlled by the provisions of **Chapter 5 (Nonconformities)**.
- E. Structures and Lots Rendered Legally Nonconforming. If a structure or lot existing on the effective date of this Ordinance was conforming prior to the effective date of this Ordinance, and such structure or lot does not meet all standards set forth in this Ordinance, that structure or lot shall be

Commented [JS2]: Bensenville: As discussed in the Recommendations Memo, §10-1-4 Transition Rules is a new addition to help users understand how existing uses, buildings, and structures will be affected by the adoption of the updated Ordinance. Sections B and C help create a distinction between legally conforming uses and legally nonconforming uses.

deemed legally nonconforming and shall be controlled by the provisions of **Chapter 5 (Nonconformities)**.

- F. **Previously Issued Building Permits.** If a building permit for a building or structure was lawfully issued prior to the effective date of this Ordinance, and if construction has begun within six months after the issuance of that permit and diligently pursued to completion, the structure may be completed based on the previously issued building permit, and may be occupied under an occupancy permit for the use originally intended upon completion. If the use was classified as a permitted or special use prior to the effective date of this Ordinance, and this Ordinance no longer classifies that use as either a permitted or special use in the zoning district in which it is located, that use shall be deemed a legal nonconforming use and shall be controlled by the provisions of **Chapter 5 (Nonconformities)**.
- G. **Previously Granted Special Uses and Variations.** All special uses and variations granted prior to the effective date of this Ordinance shall remain in effect. The recipient of the special use or variation may proceed to develop the property in accordance with the plans and any applicable conditions approved by the Village Board or Community Development Commission. If the recipient has failed to act on the special use or variation before the approval expires, including any periods of extension granted, the provisions of this Ordinance shall govern.
- H. **Pending Applications.** If an application has been submitted to the Village, but has not been scheduled for a public hearing or other required review prior to the effective date of this Ordinance, then the provisions of this Ordinance shall govern the application.

§ 10-1-5 Interpretation

- A. **Graphics, Tables, and Text.** The graphics, tables, and text in this Ordinance are regulatory. The graphics in this Ordinance are representations of the standards of this Ordinance and are not intended to represent every circumstance which may arise in the Village. In case of a conflict, text shall control over tables and graphics, and tables shall control over graphics.
- B. **Tense and Form.** Words used in the present tense include the past and future tenses.
- C. **Number.** The singular number includes the plural number, and vice versa.
- D. **Shall and May.** The word “shall” is mandatory, while the word “may” is permissive. “Shall not” and “may not” are both prohibitive.
- E. **Undefined Terms.** Any words not defined in this Title shall be interpreted as defined in normal dictionary usage.
- F. **Lists.** Lists of examples prefaced with “including the following,” “such as,” or similar phrases shall not be construed to be exclusive, or preclude the Zoning Administrator from interpreting the list to include similar, unspecified examples.

§ 10-1-6 Enforcement

- A. **Enforcement.** This Ordinance shall be enforced by the Zoning Administrator. The Zoning Administrator may seek the assistance of the Village Attorney to enjoin, abate, or stop any violation of this Ordinance. The Zoning Administrator may seek the assistance of the Police Department to

enforce this Zoning Ordinance. The property owner charged with a violation of this Zoning Ordinance may be held responsible for any legal expenses incurred by the Village.

- B. Penalties and Fines. Any person, firm, corporation, or organization of any kind who does not comply with any of the provisions of this Ordinance, or who resists the enforcement thereof, shall be fined for each offense. Each day that a violation continues shall constitute a separate offense with a separate fee. The accumulation of penalties for violations shall cease upon correction of the violation, but the obligation to pay for violations already committed shall not.

§ 10-1-7 Severability

If any portion of this Ordinance is adjudged by any court of competent jurisdiction to be invalid, that judgment shall not nullify the validity of the remainder of this Ordinance. The effect of the judgment shall be confined to the portion of the Ordinance immediately involved in the judgment rendered.

§ 10-1-8 Effective Date

The effective date of this Ordinance is the date of its adoption, **Month Date, Year**.

Commented [JS3]: Bensenville: The Village has an option to create both an adoption date and an effective date that occurs 30 to 90 days later. Communities do this to allow for an adjustment period, rather than an immediate changeover. Village staff seems to prefer a narrow window, such as 30 days, but also seems to be comfortable without an effective date.

CHAPTER 2: ADMINISTRATIVE BODIES AND PROCEDURES

- § 10-2-1 Purpose
- § 10-2-2 Village Board
- § 10-2-3 Community Development Commission
- § 10-2-4 Zoning Administrator
- § 10-2-5 Application Procedure
- § 10-2-6 Notice
- § 10-2-7 Public Hearing

§ 10-2-1 Purpose

The purpose of this Chapter is to establish the specific duties and responsibilities of the Village Board, Community Development Commission, and Zoning Administrator as they relate to this Ordinance, and establish the application, notice, and public hearing procedures for the zoning applications and approvals of this Ordinance.

§ 10-2-2 Village Board

The Village Board shall have the following specific duties and responsibilities pursuant to this Ordinance.

- A. Make final decisions on applications for special use permits, as set forth in § 10-3-3 (Special Use Permit).
- B. Make final decisions on applications for zoning variations, as set forth in § 10-3-4 (Variation).
- C. Make final decisions on applications for zoning text and map amendments, as set forth in § 10-3-6 (Zoning Text or Map Amendment).
- D. Make final decisions on applications for planned unit developments, as set forth in Chapter 4 (Planned Unit Developments).
- E. Other responsibilities as designated by this Ordinance.

§ 10-2-3 Community Development Commission

The Community Development Commission shall have the following specific duties and responsibilities pursuant to this Ordinance.

- A. Make final decisions on applications for site plan review (refer to § 10-3-2 (Site Plan Review)).
- B. Make recommendations to the Village Board on applications for special use permits (refer to § 10-3-3 (Special Use Permit)).
- C. Make recommendations to the Village Board on applications for zoning variations (refer to § 10-3-4 (Variation)).
- D. Make recommendations to the Village Board on applications for zoning text and map amendments (refer to § 10-3-6 (Zoning Text or Map Amendment)).

- E. Make final decisions on applications for zoning appeals (refer to [§ 10-3-7 \(Zoning Appeal\)](#)).
- F. Make recommendations to the Village Board on applications for planned unit developments (refer to [§ Chapter 4 \(Planned Unit Developments\)](#)).
- G. Prepare and recommend a comprehensive plan to the Village Board and propose amendments to the plan from time to time.
- H. Other responsibilities as designated by this Ordinance or by the Village Board.

§ 10-2-4 Zoning Administrator

The Director of Community Development shall be considered the Zoning Administrator and shall have the following duties and responsibilities pursuant to this Ordinance. For the purposes of this Ordinance, the term Zoning Administrator shall be inclusive of his or her designees.

- A. Review and make final decisions on applications for administrative adjustments (refer to [§ 10-3-5 \(Administrative Adjustment\)](#)).
- B. Review and make final decisions on applications for zoning interpretations (refer to [§ 10-3-8 \(Zoning Interpretation\)](#)).
- C. Review and make final decisions on applications for sign permits (refer to [§ 10-3-9 \(Sign Permit\)](#)).
- D. Review and make final decisions on applications for temporary use permits (refer to [§ 10-3-10 \(Temporary Use Permit\)](#)).
- E. Review and forward applications for site plan review ([§ 10-3-2 \(Site Plan Review\)](#)), special use permits (refer to [§ 10-3-3 \(Special Use Permit\)](#)), variations (refer to [§ 10-3-4 \(Variation\)](#)), zoning text and map amendments (refer to [§ 10-3-6 \(Zoning Text or Map Amendment\)](#)), zoning appeals (refer to [§ 10-3-7 \(Zoning Appeal\)](#)), planned unit developments (refer to [Chapter 4 \(Planned Unit Developments\)](#)), and other administrative reviews required by this Ordinance to the Community Development Commission or Village Board, as specified.
- F. Maintain and make available permanent and current records of this Ordinance and Zoning Map.
- G. Maintain and make available permanent and current records as required by this Ordinance including, but not limited to, all relevant information and official action regarding zoning applications.
- H. Other responsibilities as designated by this Ordinance, the Village Board, or the Community Development Commission.

§ 10-2-5 Application Procedure

- A. Authorization. Any property owner in the Village, or individual expressly identified by any owner in writing, is authorized to file an application for a site plan review, special use permit, variation, administrative adjustment, zoning text amendment, zoning map amendment, zoning appeal, zoning interpretation, sign permit, or temporary use permit.

Commented [MJ4]: CMAP Legal: Do we need to create a distinction between which entities are authorized to initiate an application depending on the application re §10-3A-3.A.1 of the existing Ordinance? In some communities in the region the property owner is authorized to petition the Village for certain applications while a property owner or their designee may file a petition. Bensenville generally uses the designee.

- B. Pre-Application Consultation. Prior to filing a zoning application, the applicant may arrange a pre-application consultation with the Zoning Administrator to discuss the application. At the pre-application consultation, the Zoning Administrator shall provide the applicant with guidance on the application procedure and the evaluation of applications.
- C. Filing. All applications shall be filed with the Zoning Administrator on forms provided by the Village. Applications shall be filed in such number as requested by the Village, with plans at a scale sufficient to allow a clear understanding of the proposal, and with all of the contents required by the application and this Article.
- D. Fees. Every application shall be accompanied by the required filing fee as established and modified from time to time in the Village Code. Until the fee is paid, no steps shall be taken to process the application. Applications initiated by the Village shall be exempt from fees.
- E. Completeness. The Zoning Administrator shall determine whether the application is complete. Upon determining that the application is complete, the Zoning Administrator shall notify the applicant and the application shall be scheduled for consideration by the appropriate board, commission, or official. Upon determining that the application is deficient, the Zoning Administrator shall notify the applicant and no steps shall be taken to process the application until the deficiencies are rectified.
- F. Failure to Act. The Zoning Administrator or Community Development Commission's failure to issue a decision or make a recommendation on any application within the applicable period specified in this Ordinance shall be deemed approval of, or a recommendation for approval of, such application. The Village Board's failure to issue a decision on any application within the applicable period specified in this Ordinance shall be deemed denial of such application.
- G. Supermajority Vote. A two-thirds favorable vote of the Village Board is required to approve any application for which the Community Development Commission recommends denial.
- H. Withdrawal of Application. An applicant shall have the right to withdraw an application at any time prior to the decision on the application by a board, commission, or official. Application fees for withdrawn applications will not be refunded.
- I. Successive Application. A successive application for an application that has been denied shall not be reviewed or heard within one year after the date of denial, except if substantial new information has become known since the denial. A successive application filed within one year of the date of denial shall include detailed information that justifies its consideration. The Zoning Administrator shall determine whether a successive application is appropriate for submittal.
- J. Public Examination of Application. Any person may examine any zoning application and any of the application's supporting materials, subject to the Illinois Freedom of Information Act. Upon reasonable request, any person shall be entitled to copies of the application and related documents.

§ 10-2-6 Notice

The administrative body conducting a hearing or making a decision shall not hear or review a zoning application unless the applicant complies with the notice requirements of this Section. **Table 10-2-6-1 Types of Required Notice** indicates the types of notice required prior to public hearings or decisions on each of the zoning applications.

Commented [JS5]: Bensenville: We have not included the Village's notice exemption for comprehensive amendments affecting 10 lots or more in the existing Ordinance Code (§10-3A-5). The Village will need to determine how notice will be provided for major amendments to the Ordinance, such as when the new Zoning Ordinance is adopted.

Table 10-2-6-1 Types of Required Notice

Zoning Application	Notice Type		
	Published	Mailed/Delivered	Posted Sign
Special Use Permit § 10-3-3	●	●	●
Variation § 10-3-4	●	●	●
Administrative Adjustment § 10-3-5		●	
Zoning Text Amendment § 10-3-6	●		
Zoning Map Amendment § 10-3-6	●	●	●
Zoning Appeal § 10-3-7	●		
Planned Unit Development Chapter 4	●	●	●

A. Published Notice.

1. Applicability. Published notice of a public hearing shall be provided by the Village.
2. Time Frame. Published notice shall be provided in a newspaper of general circulation within the Village no less than 15 days, but no more than 30 days, in advance of the scheduled hearing date.
3. Contents. The notice shall include the date, time, location, and purpose of the hearing, the name of the body holding the hearing, the name of the applicant, and the address of the subject property.

B. Mailed or Delivered Notice.

1. Special Use Permits, Variations, Zoning Map Amendments, and Planned Unit Developments.
 - a. Time Frame. The notice shall be provided no less than 15 days, but no more than 30 days, in advance of the scheduled hearing date.
 - b. Notice to Neighboring Properties. Mailed or delivered notice shall be provided by the Village to the owners of all properties located within 250 feet of the property line of the subject property. The area occupied by any public right-of-way shall not be included as part of this requirement. The applicant responsible for the mailed or delivered notice shall provide an affidavit to the Zoning Administrator stating that notice was provided to every property within 250 feet of the subject property as well as the names, addresses of all notice recipients, and property identification numbers of all notice recipients. The requirements of this Section shall not prevent the applicant from giving additional notice to properties located more than 250 feet from the property line of the subject property as the applicant may deem appropriate.
 - c. Contents. The notice shall include the date, time, location, and purpose of the hearing, the name of the body holding the hearing, the name of the applicant, and the address of the subject property.
2. Administrative Adjustments.
 - a. Time Frame. The notice shall be provided at least 15 days prior to the date that the Zoning Administrator indicates that a decision will be rendered on the application.
 - b. Notice to Neighboring Properties. Mailed or delivered notice shall be provided by the Village to the owners of all properties located adjacent to and across the street from the subject property. Mailed or delivered notice of Zoning Administrator review shall be provided by the Village for applications for administrative adjustments. The applicant responsible for the mailed or delivered notice shall provide an affidavit to the Zoning Administrator stating that notice was

Commented [JS6]: CMAP Legal: We do not specify hand delivery or first class mail as shown in § 10-3A-5.A.2.b of the existing Ordinance to provide greater flexibility for the applicant. Is it necessary to state “serve written notice, either in person or by registered mail, return receipt requested” as in 65 ILCS 5/11-13-7? Village staff highlights few residents actually return receipts.

provided to each property and shall provide the Village with the names, addresses, and property identification numbers of all notice recipients.

C. Posted Sign Notice.

1. Applicability. Posted sign notice of a public hearing shall be provided by the Village.
2. Time Frame. The notice shall be provided no less than 15 days, but no more than 30 days, in advance of the scheduled hearing date.
3. Location. Posted sign notice shall be located on the property so that it is legible to passersby. A minimum of one sign shall be provided per street frontage.
4. Contents. The notice shall include the date, time, location, and purpose of the hearing, the name of the body holding the hearing, the name of the applicant, and the address of the subject property.
5. Requirement Modifications. The Zoning Administrator may modify the posted sign notice requirements when these requirements are found to be inappropriate or ineffective in providing the intended notice. Modifications to the posted sign notice may include content, quantity, and location.

§ 10-2-7 Public Hearing

- A. Call for Public Hearings. All public hearings shall be held at the call of the chairperson of the hearing body and shall be open to the public.
- B. Testimony. Any person who attends a public hearing may appear and present testimony regarding an application. All testimony shall be given under oath or by affirmation.
- C. Voting. The hearing body shall keep minutes of its proceedings that show the vote of each member of the hearing body upon each application, or if absent, or failing to vote, indicating that fact.
- D. Meetings and Records. The hearing body shall keep records of its hearings, and evaluation standards shall be included in the minutes of each application specifying the reasons for the hearing body's decision. Every determination of the hearing body shall be part of the public record.
- E. Rules of Procedure. The hearing body's rules of procedure shall not conflict with this Ordinance or with state statutes.

CHAPTER 3: ZONING APPLICATIONS

- § 10-3-1 Purpose
- § 10-3-2 Site Plan Review
- § 10-3-3 Special Use Permit
- § 10-3-4 Variation
- § 10-3-5 Administrative Adjustment
- § 10-3-6 Zoning Text and Map Amendment
- § 10-3-7 Zoning Appeal
- § 10-3-8 Zoning Interpretation
- § 10-3-9 Sign Permit
- § 10-3-10 Temporary Use Permit

§ 10-3-1 Purpose

The purpose of this Chapter is to establish the applicability, procedures, requirements, and approval standards for each of the Village's zoning applications.

§ 10-3-2 Site Plan Review

- A. Purpose. The purpose of this site plan review application is to ensure development and redevelopment that is harmonious with surrounding properties, and consistent with the intent of the Comprehensive Plan and this Ordinance.
- B. Applicability. Approval of a site plan review application shall be required for the following:
1. New construction of a principal structure or use in any zoning district with the exception of single-family and two-family dwellings. However, all development in the R-4 Single-Family Residential Districts is subject to site plan review.
 2. An addition to a building in any zoning district that increases the gross floor area of the building by ten percent, with the exception of single-family and two-family dwellings.
 3. New construction, expansion, or reconstruction of an off-street parking lot that results in 15 or more total parking spaces, or any loading facility.
- C. Procedure.
1. Action by the Zoning Administrator
 - a. An application for site plan review shall be filed with the Zoning Administrator in accordance with § 10-2-5 (Application Procedure).
 - b. Upon determining that the application is complete, the Zoning Administrator shall prepare a report for the Community Development Commission based upon each of the standards of § 10-3-2.D (Standards for Site Plan Review), and schedule the application for consideration by the Community Development Commission.
 2. Action by the Community Development Commission
 - a. The Community Development Commission shall conduct a public hearing on the application in accordance with § 10-2-7 (Public Hearing) within 60 days after receipt of a complete application. The 60-day period may be extended with the written consent of the applicant.
 - b. The Community Development Commission shall evaluate the application based upon the Zoning Administrator's report, the evidence presented at the public hearing, and each of the standards of § 10-3-2.D (Standards for Site Plan Review).

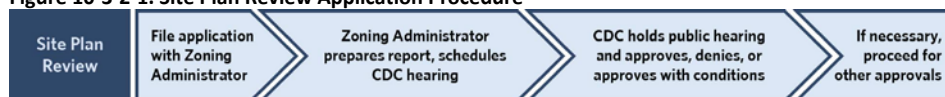
Commented [JS7]: Bensenville: The proposed R-4 District is the existing RS-6 District.

Commented [PD8]: Bensenville: This trigger for review is meant to capture major exterior modifications to principal structures. If the Village isn't comfortable with 10% of gross floor area, we can include a higher threshold.

Commented [PD9]: Bensenville: This standard is somewhat different than the introductory language for site plan review in § 10-3-6 of the existing Ordinance. The existing requirement captures all parking lots, but we have installed a threshold of 15 spaces.

- c. The Community Development Commission shall take action in the form of approval, approval with conditions, or denial of the application.

Figure 10-3-2-1. Site Plan Review Application Procedure



D. Standards for Site Plan Review. The Community Development Commission and Zoning Administrator shall evaluate applications for site plan review with specific written findings based on each of the standards of this Section.

1. The site plan for the proposed development is consistent with the existing character and zoning of adjacent properties and other property within the immediate vicinity of the proposed development.
2. The site plan for the proposed development will not adversely impact adjacent properties and other properties within the immediate vicinity of the proposed development.
3. The site plan for the proposed development will be provided with adequate utilities, access roads, parking, loading, drainage, stormwater flow paths, exterior lighting, and/or other necessary facilities.
4. The site plan for the proposed development is designed to preserve the environmental resources of the zoning lot.
5. The site plan shall accommodate on-site pedestrian circulation from parking areas, plazas, open space, and public rights-of-way. Pedestrian and vehicular circulation shall be separated to the greatest extent possible.
6. The site plan shall locate curb cuts for safe and efficient ingress and egress of vehicles. The use of shared curb cuts and cross-access easements shall be provided when appropriate.
7. The site plan for the proposed development includes architectural design that contributes positively to the Village's aesthetic appearance.
8. The site plan for the proposed development is consistent with the intent of the Comprehensive Plan, this Ordinance, and the other land use policies of the Village.

Commented [JS10]: Bensenville: The Village may want to strengthen its checklist for drainage and stormwater flow paths in the site plan review application since localized flooding has been an issue in town. CMAP can certainly provide suggestions to this effect as part of this process.

E. Amendment to Approved Site Plan. An approved site plan may be amended as either a major or minor amendment in accordance with the requirements of this Section.

1. Major Amendments. Any amendment to an approved site plan that is not established as a minor amendment in § 10-3-2.E.2 (Minor Amendments) shall be considered a major amendment. The Community Development Commission shall make a decision on a request for a major amendment in accordance with § 10-3-2.D (Standards for Site Plan Review).
2. Minor Amendments. Any change to an approved site plan that minimally affects the essential design, composition, and character of the site plan may be considered a minor amendment. The Zoning Administrator shall make a decision on a request for a minor amendment in accordance with § 10-3-2.D (Standards for Site Plan Review) or determine that any received application shall be resubmitted as a major amendment in accordance with § 10-3-2.E.1 (Major Amendments). Minor amendments shall include the following:
 - a. Any change in the gross floor area of the development by less than five percent.
 - b. Any change in the building height of the development by less than five percent.
 - c. Any change in the proportion of the impervious coverage of the development by less than five percentage points.

Commented [JS11]: Bensenville: Please note that a percentage points is the difference between two percentages. For example, moving up from 40% to 44% is a 4 percentage point increase.

- d. Any change in the location or dimensions of walkways, driveways, streets, parking facilities, and loading facilities within the development by less than five feet.
 - e. Any change in the number of off-street parking spaces provided within the development by less than 10 percent.
- F. Expiration of Site Plan Approval. Site plan approval shall expire and be revoked if either of the following conditions occur.
- 1. A building permit has not been obtained within six months after approval of the site plan. The applicant may request one six-month extension of this period, which shall be approved by the Zoning Administrator, by means of a written request filed no later than 30 days prior to the expiration of the six-month period.
 - 2. The standards of this Ordinance or any of the terms and conditions of the site plan approval are violated.

§ 10-3-3 Special Use Permit

- A. Purpose. The purpose of this special use application is to provide for uses which may have a special, unique, or unusual impact upon the use of neighboring property.
- B. No Presumption of Approval. A use established as a special use in [§ 10-7 \(Uses\)](#) does not constitute a presumption that an application for such special use will be approved. Each proposed special use shall be evaluated on an individual basis with regard to the applicable standards of this Ordinance to determine whether approval of the special use is appropriate at the particular location in the manner proposed.
- C. Expansion or Alteration. Any addition, enlargement, or expansion of a use holding a special use permit shall require a new permit.
- D. Procedure.
- 1. Action by the Zoning Administrator
 - a. An application for a special use permit shall be filed with the Zoning Administrator in accordance with [§ 10-2-5 \(Application Procedure\)](#).
 - b. Upon determining that the application is complete, the Zoning Administrator shall prepare a report for the Community Development Commission based upon the standards of [§ 10-3-4.E \(Standards for Special Use Permits\)](#), and schedule the application for consideration by the Community Development Commission.
 - 2. Action by the Community Development Commission
 - a. The Community Development Commission shall conduct a public hearing on the application in accordance with [§ 10-2-7 \(Public Hearing\)](#) within 60 days after receipt of a complete application. The 60-day period may be extended with the written consent of the applicant.
 - b. The Community Development Commission shall evaluate the application based upon the Zoning Administrator's report, the evidence presented at the public hearing, and each of the standards of [§ 10-3-4.E \(Standards for Special Use Permits\)](#).
 - c. The Community Development Commission shall recommend approval, approval with conditions, or denial of the application. In recommending approval, the Community Development Commission may:
 - (1) Recommend conditions upon the establishment, location, construction, maintenance, and operation of the special use as deemed necessary to protect the public interest.

- (2) Recommend guarantees from the permittee as deemed necessary to assure compliance with the stipulated conditions of approval.
 - d. The Community Development Commission shall forward its recommendation and the minutes of its public hearing to the Village Board within 30 days after the close of the public hearing.
3. Action by the Village Board
- a. The Village Board shall consider the application within 60 days after receiving the recommendation of the Community Development Commission. The 60-day period may be extended with the written consent of the applicant.
 - b. The Village Board shall evaluate the application based upon the Zoning Administrator's report, the recommendation of the Community Development Commission, the evidence presented at the public hearing, and each of the standards of § 10-3-4.E (Standards for Special Use Permits).
 - c. The Village Board shall take action in the form of approval, approval with conditions, denial, or referral of the application back to the Community Development Commission for further consideration. In approving a special use permit, the Village Board may:
 - (1) Require conditions upon the establishment, location, construction, maintenance, and operation of the special use as deemed necessary to protect the public interest.
 - (2) Require guarantees from the permittee as deemed necessary to assure compliance with the stipulated conditions of approval.
 - d. A two-thirds favorable vote of the Village Board is required to approve the application if the Community Development Commission recommends denial of the application.

Commented [JS12]: Bensenville: In the existing Ordinance, the CDC must forward their recommendation to the Village Board within 10 days (§ 10-3A-7.B.2). The Village Board must consider the application within 90 days (§ 10-3A-9.A.b). We have attempted to clarify this by allowing 30 days for the CDC to forward their recommendation and 60 days for the Village Board to consider the application. We made this change in each case when the Board received a recommendation from the CDC. Our goal was to add more consistency to the way timeframes are presented in the Ordinance. Please let us know how this jibes with existing administrative procedures in the Village.

Figure 10-3-3-1. Special Use Permit Application Procedure



- E. Standards for Special Use Permits. The Village Board, Community Development Commission, and Zoning Administrator shall evaluate applications for special use permits with specific written findings based on each of the standards of this Section.
1. The proposed special use will not endanger the health, safety, comfort, convenience and general welfare of the public.
 2. The proposed special use is compatible with the character of adjacent properties and other property within the immediate vicinity of the proposed special use.
 3. The proposed special use will not impede the normal and orderly development and improvement of adjacent properties and other property within the immediate vicinity of the proposed special use.
 4. The proposed special use will not require utilities, access roads, drainage and/or other facilities or services to a degree disproportionate to that normally expected of permitted uses in the district, nor generate disproportionate demand for new services or facilities in such a way as to place undue burdens upon existing development in the area.
 5. The proposed special use is consistent with the intent of the Comprehensive Plan, this Ordinance, and the other land use policies of the Village.
- F. Transferability. Special use approval runs with the land and is not affected by changes of ownership, tenancy, or management except in unique situations specified by the conditions of the approved special use permit.

Commented [PD13]: Bensenville: These standards incorporate and improve upon the standards of the existing Ordinance (§ 10-3-4.C), but please let us know if any additional standards should be included.

Also, the characteristics for evaluation listed in § 10-3-4.B (Review of Conditional Uses) were not retained. These standards seem more closely aligned with standards for site plan review than special use permits. If the Village has found the added guidance provided by that section helpful, please let us know.

Commented [PD14]: CMAP Legal: Please provide Village staff with an explanation of whether the Village can or cannot tie all special uses to the applicant/owner.

G. Expiration of Special Use Permit Approval. Special use permit approval shall expire and be revoked if any of the following conditions occur.

1. The use has not commenced or a building permit has not been obtained within one year after approval of the special use permit. The applicant may request one extension of this period for up to one additional year, which shall be approved by the Zoning Administrator, by means of a written request filed at least 30 days prior to the expiration of the initial one-year period.
2. The licenses or permits required for the operation or maintenance of the use are not obtained or are subsequently terminated.
3. The standards of this Ordinance or any of the terms and conditions of the special use permit are violated.
4. The operation of the use for which a special use permit has been issued ceases for a minimum continuous period of six months.

§ 10-3-4 Variation

A. Purpose. The purpose of this variation application is to grant relief from the regulations of this Ordinance to the extent that literal enforcement of such regulations creates particular hardships or practical difficulties in developing property due to the unique attributes of the property. The purpose of the variation process is not to provide relief from the use permissions of this Ordinance.

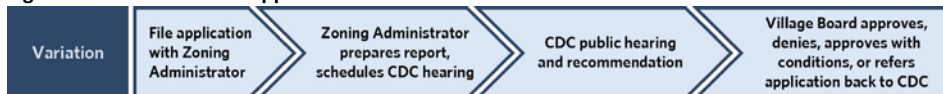
B. Applicability. Any application for relief from the regulations of this Ordinance that is not established as an administrative adjustment in **§ 10-3-5 (Administrative Adjustments)** shall be considered a variation.

C. Procedure.

1. Action by the Zoning Administrator
 - a. An application for a variation shall be filed with the Zoning Administrator in accordance with **§ 10-2-5 (Application Procedure)**.
 - b. Upon determining that the application is complete, the Zoning Administrator shall prepare a report for the Community Development Commission based upon each of the standards of **§ 10-3-5.D (Standards for Variations)**, and schedule the application for consideration by the Community Development Commission.
2. Action by the Community Development Commission
 - a. The Community Development Commission shall conduct a public hearing on the application in accordance with **§ 10-2-7 (Public Hearing)** within 60 days after receipt of a complete application. The 60-day period may be extended with the written consent of the applicant.
 - b. The Community Development Commission shall evaluate the application based upon the Zoning Administrator's report, the evidence presented at the public hearing, and each of the standards of **§ 10-3-5.D (Standards for Variations)**.
 - c. The Community Development Commission shall recommend approval, approval with conditions, or denial of the application. In recommending approval, the Community Development Commission may:
 - (1) Recommend conditions upon the establishment, location, construction, maintenance, and operation of the property that receives a variation as deemed necessary to protect the public interest.
 - (2) Recommend approval of a variation from the regulations of this Ordinance less than that requested by the applicant, if the Community Development Commission finds that the

- applicant is entitled to some relief, but not to the entire relief requested, based upon each of the standards of § 10-3-5.D (Standards for Variations).
- (3) Recommend guarantees from the permittee as deemed necessary to assure compliance with the stipulated conditions of approval.
 - d. The Community Development Commission shall forward its recommendation and the minutes of its public hearing to the Village Board within 30 days after the close of the public hearing.
3. Action by the Village Board
- a. The Village Board shall consider the application within 60 days after receiving the recommendation of the Community Development Commission. The 60-day period may be extended with the written consent of the applicant.
 - b. The Village Board shall evaluate the application based upon the Zoning Administrator's report, the recommendation of the Community Development Commission, the evidence presented at the public hearing, and each of the standards of § 10-3-5.D (Standards for Variations).
 - c. The Village Board shall take action in the form of approval, approval with conditions, denial, or referral of the application back to the Community Development Commission for further consideration. In approving a variation, the Village Board may:
 - (1) Impose conditions upon the establishment, location, construction, maintenance, and operation of the property that receives a variation as deemed necessary to protect the public interest.
 - (2) Grant a variation from the regulations of this Ordinance less than that requested by the applicant, if the Village Board finds that the applicant is entitled to some relief, but not to the entire relief requested, based upon each of the standards of § 10-3-5.D (Standards for Variations).
 - (3) Require guarantees from the permittee as deemed necessary to assure compliance with the stipulated conditions of approval.
 - d. A two-thirds favorable vote of the Village Board is required to approve the application if the Community Development Commission recommends denial of the application.

Figure 10-3-4-1. Variation Application Procedure



- D. **Standards for Variations.** The Village Board, Community Development Commission, and Zoning Administrator shall evaluate applications for variations with specific written findings based on each of the standards of this Section.
1. The proposed variation will not endanger the health, safety, comfort, convenience, and general welfare of the public.
 2. The proposed variation is compatible with the character of adjacent properties and other property within the immediate vicinity of the proposed variation.
 3. The proposed variation alleviates an undue hardship created by the literal enforcement of this Ordinance.
 4. The proposed variation is necessary due to the unique physical attributes of the subject property, which were not deliberately created by the applicant.
 5. The proposed variation represents the minimum deviation from the regulations of this Ordinance necessary to accomplish the desired improvement of the subject property.

Commented [PD15]: Bensenville: These standards incorporate and update the existing standards of § 10-3-3.B (Standards for Variances), with the exception of § 10-3-3.B.5 (Preserve Rights Conferred By District) and § 10-3-3.B.6 (Necessary for Use of Property). If the Village relies on these standards for application review, however, please let us know.

6. The proposed variation is consistent with the intent of the Comprehensive Plan, this Ordinance, and the other land use policies of the Village.
- E. Transferability. Variation approval runs with the land and is not affected by changes of ownership, tenancy, or management.
- F. Expiration of Variation Approval. Variation approval shall expire and be revoked if any of the following conditions occur.
 1. A building permit has not been obtained within one year after approval of the variation. The applicant may request one six-month extension of this period, which shall be approved by the Zoning Administrator, by means of a written request filed at least 30 days prior to the expiration of the initial six-month period.
 2. The standards of this Ordinance or any of the terms and conditions of the variation are violated.

§10-3-5 Administrative Adjustment

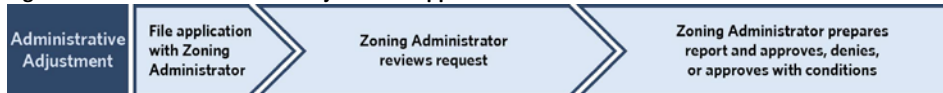
- A. Purpose. The purpose of this administrative adjustment application is to grant relief from the regulations of this Ordinance within a narrowly defined set of circumstances to the extent that literal enforcement of such regulations creates particular hardships or practical difficulties in developing property due to the unique attributes of the property.
- B. **Applicability.** Any application for relief from the regulations of this Ordinance that is established in this Section shall be considered an administrative adjustment.
 1. A reduction of the minimum required lot area by not more than 20 percent.
 2. A reduction of the minimum required lot width by not more than 20 percent.
 3. An increase in the maximum permitted impervious coverage by not more than five percentage points.
 4. A reduction of the minimum required front setback by not more than 20 percent.
 5. An increase in the maximum permitted front setback by not more than 20 percent.
 6. A reduction of the minimum required corner side setback by not more than 20 percent.
 7. An increase in the maximum permitted corner side setback by not more than 20 percent.
 8. A reduction of the minimum required interior side setback by not more than 20 percent.
 9. A reduction of the minimum required rear setback by not more than 20 percent.
 10. A reduction of the minimum required street frontage by not more than 10 percentage points.
 11. A modification of the required and prohibited materials established in § 10-6-17 (Design Requirements for Commercial Districts) and § 10-6-20 (Design Requirements for Industrial Districts).
 12. A reduction of the minimum required off-street parking by not more than 10 percent, or four spaces, whichever is higher.
 13. An increase in the maximum permitted sign area by not more than 10 percent.
 14. An increase in the maximum permitted sign height by not more than 10 percent.
 15. Any change to the standards for temporary signs with permit requirements as established in § 10-10-5.ZZZ (Temporary Signs with Permit Requirement).
- C. Procedure.
 1. An application for an administrative adjustment shall be filed with the Zoning Administrator in accordance with § 10-2-5 (Application Procedure).

Commented [JS16]: Bensenville: The applicability of administrative adjustments will make more sense once you review the district standards for bulk, the minimum parking requirements, and the sign regulations. We should flag this section and review it once again when you have had an opportunity to review the rest of the Code.

Commented [JS17]: Bensenville: During our call with Staff about the Appearance Code, we discussed the idea of giving the Zoning Administrator the ability to waive standards related to building materials. We should flag this section and review it once again when you have had an opportunity to review the standards related to materials.

2. Upon determining that the application is complete, the Zoning Administrator shall evaluate the application based upon each of the standards of § 10-3-5.D (Standards for Administrative Adjustments).
3. Due to the nature of an application for an administrative adjustment, the Zoning Administrator may determine that the application must be resubmitted as a variation in accordance with § 10-3-4 (Variations) even if it meets the criteria for an administrative adjustment in § 10-3-5.B (Applicability).
4. A property owner that receives notice of an administrative adjustment application may object to the application by written submission to the Zoning Administrator, prior to the Zoning Administrator's decision on the application. Any administrative adjustment application for which an objection is received from a noticed property owner shall be resubmitted as a variation in accordance with § 10-3-5 (Variations).
5. The Zoning Administrator shall prepare a report and render a decision within 30 days after receipt of a complete application and take action in the form of approval, approval with conditions, or denial of the application. In approving an administrative adjustment, the Zoning Administrator may:
 - a. Require conditions upon the establishment, location, construction, maintenance, and operation of the property that receives an administrative adjustment as deemed necessary to protect the public interest.
 - b. Grant an administrative adjustment less than that requested by the applicant if the Zoning Administrator finds that the applicant is entitled to some relief, but not to the entire relief requested, based on each of the standards of § 10-3-4.D (Standards for Administrative Adjustments).
6. If the Zoning Administrator denies an application for an administrative adjustment, the applicant may resubmit the application as a variation in accordance with § 10-3-4 (Variations).

Figure 10-3-5-1. Administrative Adjustment Application Procedure



- D. **Standards for Administrative Adjustments.** The Zoning Administrator shall evaluate applications for administrative adjustments with specific written findings based on each of the standards of this Section.
1. The proposed administrative adjustment will not endanger the health, safety, comfort, convenience, and general welfare of the public.
 2. The proposed administrative adjustment is compatible with the character of adjacent properties and other property within the immediate vicinity of the proposed administrative adjustment.
 3. The proposed administrative adjustment alleviates an undue hardship created by the literal enforcement of this Ordinance.
 4. The proposed administrative adjustment is necessary due to the unique physical attributes of the subject property, which were not deliberately created by the applicant.
 5. The proposed administrative adjustment represents the minimum deviation from the regulations of this Ordinance necessary to accomplish the desired improvement of the subject adjustment.
 6. The proposed administrative adjustment is consistent with the intent of the Comprehensive Plan, this Ordinance, and the other land use policies of the Village.

Commented [JS18]: CMAP Legal: These approval standards are substantially the same as the approval standards for a typical variation. Would you recommend revising these standards in some way to reflect the nature of an administrative adjustment?

- E. Transferability. Administrative adjustment approval runs with the land and is not affected by changes of ownership, tenancy, or management.
- F. Expiration of Administrative Adjustment Approval. Administrative adjustment approval shall expire and be revoked if any of the following conditions occur.
 - 1. A building permit has not been obtained within one year after approval of the administrative adjustment. The applicant may request one six-month extension of this period, which shall be approved by the Zoning Administrator, by means of a written request filed at least 30 days prior to the expiration of the initial six-month period.
 - 2. The standards of this Ordinance or any of the terms and conditions of the administrative adjustment are violated.

§ 10-3-6 Zoning Text or Map Amendment

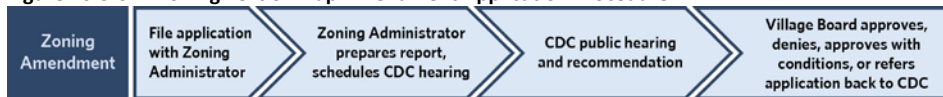
- A. Purpose. The purpose of this zoning text or map amendment application is to allow modifications to the text of the Zoning Ordinance and the boundaries of the Zoning Map in response to changing conditions and policies.
- B. **Moratorium.** To prevent the proliferation of nonconformities while zoning text or map amendments are being considered, no zoning application shall be processed for any use, building, or structure that would become nonconforming under the proposed amendment. This moratorium shall be in effect for 90 days from the date of the public hearing notice in accordance with **§ 10-2-6 (Notice)**. If the Village does not approve the proposed zoning text or map amendment within this period, the Village shall process the requested zoning application, business license, occupancy permit, or building permit.
- C. Procedure.
 - 1. Action by the Zoning Administrator
 - a. An application for a zoning text or map amendment shall be filed with the Zoning Administrator in accordance with **§ 10-2-5 (Application Procedure)**.
 - b. Upon determining that the application is complete, the Zoning Administrator shall prepare a report for the Community Development Commission based upon a balance of the standards of **§ 10-3-6.D (Standards for Zoning Amendments)** and schedule the application for consideration by the Community Development Commission.
 - 2. Action by the Community Development Commission
 - a. The Community Development Commission shall conduct a public hearing on a proposed zoning amendment in accordance with **§ 10-2-7 (Public Hearing)** within 60 days after receipt of a complete application. The 60-day period may be extended with the written consent of the applicant.
 - b. The Community Development Commission shall evaluate the application based upon the Zoning Administrator's report, the evidence presented at the public hearing, and the standards of **§ 10-3-6.D (Standards for Zoning Amendments)**.
 - c. For zoning text amendments, the Community Development Commission shall recommend approval, approval with modifications to the proposed text, or denial of the application.
 - d. For zoning map amendments, the Community Development Commission shall recommend approval or denial of the application.
 - e. The Community Development Commission shall forward its recommendation and the minutes of its public hearing to the Village Board within 30 days after the close of the public hearing.

Commented [JS19]: CMAP Legal: The Village has passed a number of moratoriums like this in recent years. Is a moratorium like this from § 10-3-5 of the Village's existing Ordinance legally defensible?

3. Action by the Village Board

- a. The Village Board shall consider the application within 60 days after receiving the recommendation of the Community Development Commission. The 60-day period may be extended with the written consent of the applicant.
- b. The Village Board shall evaluate the application based upon the Zoning Administrator's report, the recommendation of the Community Development Commission, the evidence presented at the public hearing, and the standards of **§ 10-3-6.D (Standards for Zoning Amendments)**.
- c. For zoning text amendments, the Village Board shall take action in the form of approval, approval with modifications to the proposed text, denial, or referral of the application back to the Community Development Commission for further consideration.
- d. For zoning map amendments, the Village Board shall take action in the form of approval, denial, or referral of the application back to the Community Development Commission for further consideration.
- e. A two-thirds favorable vote of the Village Board is required to approve the application if the Community Development Commission recommends denial of the application.
- f. A two-thirds favorable vote of the Village Board is required if written protest is filed with the Village Clerk against the proposed zoning text or map amendment, signed by the owners of no less than 20 percent of the frontage along, immediately adjacent to, immediately across an alley from, or directly across the street from the subject property.

Figure 10-3-6-1. Zoning Text or Map Amendment Application Procedure



D. Standards for Zoning Amendments. The Village Board, Community Development Commission, and Zoning Administrator shall evaluate applications for zoning text or map amendments with specific written findings based on a balance of the standards for each type of amendment.

1. Approval Standards for Text Amendments

- a. The proposed amendment will not endanger the health, safety, comfort, convenience, and general welfare of the public.
- b. The proposed amendment corrects an error, adds clarification, or reflects a change in policy.
- c. The proposed amendment is consistent with the intent of the Comprehensive Plan, this Ordinance, and the other land use policies of the Village.

2. Approval Standards for Map Amendments

- a. The proposed amendment will not endanger the health, safety, comfort, convenience, and general welfare of the public.
- b. The proposed amendment is compatible with the existing uses, character, and zoning of adjacent properties and other property within the immediate vicinity of the proposed amendment.
- c. The proposed amendment provides a relative gain to the public, as compared to any hardship imposed upon an individual property owner.
- d. The proposed amendment addresses the community need for a specific use.
- e. The proposed amendment corrects an error, adds clarification, or reflects a change in policy.
- f. The proposed amendment is consistent with the intent of the Comprehensive Plan, this Ordinance, and the other land use policies of the Village.

§ 10-3-7 Zoning Appeal

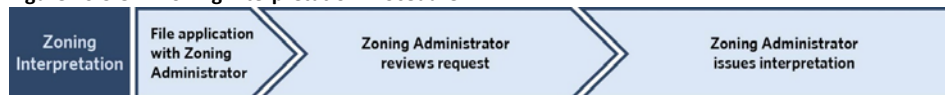
- A. Purpose. The purpose of this zoning appeal application is to provide for the review of decisions made by the Zoning Administrator in the course of carrying out the duties and responsibilities associated with this Ordinance.
- B. Initiation. A zoning appeal may be proposed by any property owner in the Village, or an individual expressly identified by any owner in writing, that has been affected by a decision of the Zoning Administrator pursuant to this Ordinance. A zoning appeal must be proposed within 30 days after the date of the decision being appealed.
- C. Procedure.
1. Action by the Zoning Administrator
 - a. An application for a zoning appeal shall be filed with the Zoning Administrator in accordance with § 10-2-5 (Application Procedure).
 - b. Upon determining that the application is complete, the Zoning Administrator shall prepare a report for the Community Development Commission, and schedule the application for consideration by the Community Development Commission.
 2. Action by the Community Development Commission
 - a. The Community Development Commission shall conduct a public hearing on a proposed zoning appeal in accordance with § 10-2-7 (Public Hearing) within 60 days after receipt of a complete application. The 60-day period may be extended with the written consent of the applicant.
 - b. The Community Development Commission shall take action in the form of affirming, modifying, or reversing the decision made by the Zoning Administrator.

Commented [JS20]: Bensenville: In the existing Ordinance, the timeframe is 30 days (§ 10-3A-12.F). Building on the comment on the top of page 4, we recommend a 60-day timeframe for CDC review for the sake of consistency.

§ 10-3-8 Zoning Interpretation

- A. Purpose. The purpose of this zoning interpretation application is to provide a process by which the standards of this Ordinance can be clarified and explained, in order to ensure consistent interpretation and application. Zoning interpretations are not intended to amend or modify the content of this Ordinance.
- B. Limitation. All zoning interpretation requests shall be requested for the purpose of furthering an actual development or establishment or clarification of a use.
- C. Procedure.
1. An application for a zoning interpretation shall be filed with the Zoning Administrator in accordance with § 10-2-5 (Application Procedure).
 2. Upon determining that the application is complete, the Zoning Administrator shall render an interpretation within 15 days after receipt of the complete application.
 3. The determination of the Zoning Administrator may be appealed to the Community Development Commission in accordance with § 10-3-7 (Zoning Appeal).

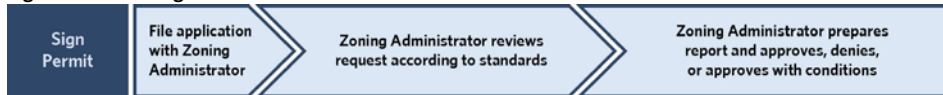
Figure 10-3-8-1. Zoning Interpretation Procedure



§ 10-3-9 Sign Permit

- A. Purpose. The purpose of this sign permit application is to establish a process for obtaining a permit to erect, construct, alter, or relocate signs within the Village.
- B. Applicability. An applicant must obtain a sign permit in order to erect, construct, alter, or relocate a sign, except for certain exempt permanent and temporary signs as specified in § 10-10-4.ZZZ (Permanent Signs Exempt from Permit Requirements) and § 10-10-5.ZZZ (Temporary Signs Exempt from Permit Requirements). The maintenance of signs does not require a sign permit and includes, but is not limited to, cleaning, painting, repairing, changing advertising copy, changing items of information, or modifying the copy of changeable copy signs.
- C. Procedure.
1. An application for a sign permit shall be filed with the Zoning Administrator in accordance with § 10-2-5 (Application Procedure).
 2. Upon determining that the application is complete, the Zoning Administrator shall approve, approve with conditions, or deny the sign permit based on the standards of § 10-10 (Signs) within 30 days after receipt of the complete application.

Figure 10-3-9-1. Sign Permit Procedure



- D. Expiration of Sign Permit Approval. Sign permit approval shall expire and be revoked if any of the following conditions occur.
1. A building permit has not been obtained within six months after approval of the sign permit. The applicant may request one six-month extension of this period, which shall be approved by the Zoning Administrator by means of a written request filed prior to the expiration of the initial six-month period.
 2. The standards of this Ordinance or any of the terms and conditions of the sign permit are violated.

§ 10-3-10 Temporary Use Permit

- A. Purpose. The purpose of this temporary use permit application is to accommodate reasonable requests for temporary uses that are desirable for the community in the short term.
- B. Applicability. An applicant must obtain a temporary use permit to establish a temporary use in accordance with § 10-7-5 (Temporary Structures and Uses).
- C. Procedure.
1. An application for a temporary use permit shall be filed with the Zoning Administrator in accordance with § 10-2-5 (Application Procedure).
 2. Upon determining that the application is complete, the Zoning Administrator shall approve, approve with conditions, or deny the temporary use permit based on the standards of § 10-7-5 (Temporary Structures and Uses), within 30 days after receipt of the complete application. Temporary uses not established in § 10-7-5 (Temporary Structures and Uses) shall require approval by the Village Board through a zoning text or map amendment as established in § 10-3-6 (Zoning Text or Map Amendment).

Commented [JS21]: Bensenville: Unlike § 10-18-13.B of the existing Ordinance, we did not include the standard that notes that fees shall be doubled if the sign has already been installed.

In addition, the bonding, insurance, and licensing requirements of § 10-18-13.D and § 10-18-13.E of the existing Ordinance should be part of the building permit process, rather than the sign permit.

Commented [JS22]: Bensenville: Please note, that the approval criteria for temporary uses (§ 10-3-8.C) from the existing Ordinance were not included. The use standards in Chapter 7 (Uses) will be a more appropriate means of managing approval.

Figure 10-3-10-1. Temporary Use Permit Application Procedure



D. Expiration of Temporary Use Permit Approval. The temporary use permit is valid for the time period granted as part of the approval.

CHAPTER 4: PLANNED UNIT DEVELOPMENTS

- § 10-4-1 Purpose
- § 10-4-2 Applicability
- § 10-4-3 Procedure
- § 10-4-4 Amendments to Approved Planned Unit Developments
- § 10-4-5 Standards for Planned Unit Developments
- § 10-4-6 Provision of Community Amenities
- § 10-4-7 Expiration of Approved Planned Unit Developments

§ 10-4-1 Purpose

Planned unit developments are a distinct category of special use permit intended to allow flexibility in the application of the standards of this Ordinance for significant development proposals that provide amenities to the community beyond those required of conventional development applications. The planned unit development process seeks to achieve the following specific purposes:

- A. Protect and promote the health, safety, comfort, convenience, and general welfare of the public.
- B. Encourage creativity, flexibility, sustainability, and environmental sensitivity in the development of land and the design of structures.
- C. Provide for the efficient use of land to facilitate a more effective arrangement of land uses, structures, utilities, circulation systems, parking, and other facilities.
- D. Facilitate development that is consistent with Village land use policies, particularly in areas designated for potential redevelopment.
- E. Encourage development that preserves and enhances the natural features, environmental resources, watercourses, and topography of the site.
- F. Facilitate the provision of public and private open space, recreational facilities, and other amenities that will enhance the character of the site.

§ 10-4-2 Applicability

- A. Special Use Permit Standards. A planned unit development shall be granted in accordance with the procedures, standards, and requirements of this Section, **Chapter 7 (Uses)** and **§ 10-3-3 (Special Use Permit)**. The Ordinance granting or amending the planned unit development as a special use may depart from the procedures, standards, and requirements of this Ordinance.
- B. Zoning District Exceptions. Planned unit developments are subject to the regulations of the zoning district in which they are located, unless exceptions from these regulations are specifically recommended by the Community Development Commission, granted by the Village Board, and found to be in accordance with **§ 10-4-5 (Standards for Planned Unit Developments)**.
- C. Subdivision Plats and Building Permits. A planned unit development must be granted prior to the applicant receiving approval of a subdivision plat in accordance with **Title 11, Chapter 3 (Subdivision Procedures)** or a building permit in accordance with **Title 9 (Building Regulations)**.

Commented [JS23]: Bensenville: As discussed in the Recommendations Memo, the PUD process is optional in the updated Ordinance. It does not include the PUD requirement for certain zoning districts from §10-10-2.B of the existing Ordinance.

§ 10-4-3 Procedure

An application for a planned unit development shall follow a four-step procedure, which includes a staff consultation, an optional concept plan consultation, a preliminary plan, and a final plan. The applicant may submit concurrent applications for the preliminary plan and final plan, in which case the preliminary plan and the final plan shall be comprised of the same document in accordance with § 10-4-3.D (Final Plan).

Commented [JS24]: Bensenville: As described in the Recommendations Memo, the updated Ordinance includes its own approval procedure, as opposed to the procedure in the existing Ordinance, which applies to multiple zoning applications.

A. Staff Consultation. The purpose of the staff consultation is to allow the applicant to receive advice and assistance from the Zoning Administrator and appropriate Village staff prior to preparation of the optional concept plan or preliminary plan.

1. Action by the Zoning Administrator

- a. Prior to filing a formal application for a planned unit development, the applicant shall arrange a staff consultation with the Zoning Administrator to discuss the proposed planned unit development.
- b. The Zoning Administrator and appropriate Village staff shall meet with the applicant to discuss the proposed planned unit development and the requirements for a planned unit development application.
- c. The Zoning Administrator shall provide advice and assistance to the applicant after determining the nature of the exceptions required from this Ordinance and whether the proposal is consistent with the intent of the Comprehensive Plan and the other land use policies of the Village.
- d. Any advice and assistance provided by the Zoning Administrator and Village staff shall not be binding upon the Village Board or Community Development Commission with respect to the formal planned unit development application.

B. Optional Concept Plan Consultation. The purpose of the optional concept plan consultation is to allow the applicant to obtain information and guidance from the Community Development Commission and Village Board prior to preparation of the preliminary plan.

1. Action by the Community Development Commission

- a. Prior to filing a formal application for a planned unit development, the applicant may arrange an optional concept plan consultation with the Community Development Commission to discuss the proposed planned unit development.
- b. The Community Development Commission shall meet with the applicant to discuss the proposed planned unit development and the requirements for a planned unit development application.
- c. The Community Development Commission shall provide information and guidance to the applicant after determining the nature of the exceptions required from this Ordinance and whether the proposal is consistent with the intent of the elements of the Comprehensive Plan and the other land use policies of the Village.
- d. Any information and guidance provided by the Community Development Commission shall not be binding upon the Community Development Commission or Village Board with respect to any formal planned unit development application.

2. Action by the Village Board

- a. Following a meeting with the Community Development Commission to discuss a proposed planned unit development, the applicant may also arrange an optional concept plan consultation with the Village Board to discuss the proposed planned unit development.

- b. The Village Board shall meet with the applicant to discuss the proposed planned unit development and the requirements for a planned unit development application.
 - c. The Village Board shall provide information and guidance to the applicant after determining the nature of the exceptions required from this Ordinance and whether the proposal is consistent with the intent of the elements of the Comprehensive Plan and the other land use policies of the Village.
 - d. Any information and guidance provided by the Village Board shall not be binding upon the Village Board or Community Development Commission with respect to any formal planned unit development application.
- C. Preliminary Plan. The purpose of the preliminary plan is to allow the applicant to obtain a preliminary recommendation from the Community Development Commission and preliminary approval from the Village Board prior to preparation of the final plan.
- 1. Action by the Zoning Administrator
 - a. Applications for a preliminary plan for a planned unit development and a special use permit shall be filed concurrently with the Zoning Administrator in accordance with [§ 10-2-5 \(Application Procedure\)](#) and the requirements for a planned unit development application. Applications shall not be filed prior to completion of the staff consultation.
 - b. Upon determining that the application is complete, the Zoning Administrator shall prepare a report for the Community Development Commission based upon the standards of [§ 10-4-5 \(Standards for Planned Unit Developments\)](#) and [§ 10-3-3.E \(Standards for Special Use Permits\)](#), and schedule the application for consideration by the Community Development Commission.
 - 2. Action by the Planning Commission
 - a. The Community Development Commission shall conduct a public hearing on a proposed preliminary plan for a planned unit development and a special use permit in accordance with [§ 10-2-7 \(Public Hearing\)](#) within 60 days after receipt of a complete application. The 60-day period may be extended with the written consent of the applicant. Notice for the public hearing shall be in accordance with [§ 10-2-6 \(Notice\)](#).
 - b. The Community Development Commission shall evaluate the application based upon the Zoning Administrator's report, the evidence presented at the public hearing, and the standards of [§ 10-4-5 \(Standards for Planned Unit Developments\)](#) and [§ 10-3-3.E \(Standards for Special Use Permits\)](#).
 - c. The Community Development Commission shall recommend approval, approval with conditions, or denial of the application.
 - (1) In recommending approval of a preliminary plan for a planned unit development and a special use permit, the Community Development Commission may recommend conditions upon the establishment, location, construction, maintenance, and operation of the planned unit development and a special use permit as deemed necessary to protect the public interest.
 - (2) In recommending approval of a preliminary plan for a planned unit development and a special use permit, the Community Development Commission may recommend guarantees from the permittee as deemed necessary to assure compliance with the stipulated conditions of approval.
 - d. The Community Development Commission shall forward its recommendation and the minutes of its public hearing to the Village Board within 30 days after the close of the public hearing.

3. Action by the Village Board
- a. The Village Board shall consider the application within 60 days after receiving the recommendation of the Community Development Commission. The 60-day period may be extended with the written consent of the applicant.
 - b. The Village Board shall evaluate the application based upon the Zoning Administrator's report, the recommendation of the Community Development Commission, the evidence presented at the public hearing, and the standards of § 10-4-5 (Standards for Planned Unit Developments) and § 10-3-3.E (Standards for Special Use Permits).
 - c. The Village Board shall take action in the form of approval, approval with conditions, denial, or referral of the application back to the Community Development Commission for further consideration. In approving a preliminary plan for a planned unit development and a special use permit, the Village Board may:
 - (1) Identify conditions upon the establishment, location, construction, maintenance, and operation of the planned unit development and the special use as deemed necessary to protect the public interest, to be imposed at such time as final plan approval of the planned unit development is granted.
 - (2) Require guarantees from the permittee as deemed necessary to assure compliance with the stipulated conditions.
 - d. Following approval of a preliminary plan for a planned unit development and a special use permit the applicant shall be entitled to submit a final plan for the planned unit development.
- D. Final Plan. The purpose of the final plan is to allow the applicant to obtain final approval of the planned unit development from the Village Board.
1. Action by the Zoning Administrator
 - a. Applications for a final plan for a planned unit development shall be filed with the Zoning Administrator in accordance with § 10-2-5 (Application Procedure) and the requirements for a planned unit development application. Applications shall be filed within one year after approval of the preliminary plan.
 - b. Upon determining that the application is complete, the Zoning Administrator shall determine whether the final plan is in conformance with the approved preliminary plan and any conditions and guarantees deemed necessary by the Village Board.
 - c. If the final plan is in substantial conformance with the approved preliminary plan, the Zoning Administrator shall prepare a report for the Village Board recommending approval of the final plan and schedule the application for consideration by the Village Board.
 - d. If the final plan is not in substantial conformance with the approved preliminary plan, the Zoning Administrator shall allow the applicant to revise any parts of the application that are not in substantial conformance with the preliminary plan prior to preparing the report, and shall allow the applicant to resubmit the application as a final plan in accordance with the requirements of this Section.
 2. Action by the Village Board
 - a. The Village Board shall consider the application within 30 days after receiving the report of the Zoning Administrator recommending approval of the final plan. The 30-day period may be extended with the written consent of the applicant.
 - b. The Village Board shall take action in the form of approval, approval with conditions, or denial of the application.
 - c. Upon approval of the final plan by the Village Board, the use of land and the construction or modification of any buildings or structures on the site will be governed by the approved final plan rather than by other provisions of this Ordinance.

Commented [JS25]: Bensenville: The updated Ordinance does not require the applicant to file the Final Plan with the County Recorder of Deeds as in §10-10-6.B of the existing Ordinance. This step is unnecessary if subdivision is not part of the PUD.

Figure 10-4-3-1. Planned Unit Development Procedure



§ 10-4-4 Amendment to Approved Planned Unit Developments

A final plan for an approved planned unit development may be amended in accordance with the requirements of this Section.

A. **Major Amendments.** During construction of the planned unit development, any change to an approved final plan that substantially affects the essential design, composition, and character of the planned unit development shall be considered a major amendment. Any amendment that is not established as a minor amendment in § 10-4-4.B (Minor Amendments) shall be considered a major amendment. The Village Board shall make a decision on a request for a major amendment after receiving a recommendation from the Community Development Commission in accordance with § 10-4-3.C (Preliminary Plan).

B. **Minor Amendments.** During construction of the planned unit development, any change to an approved final plan that minimally affects the essential design, composition, and character of the planned unit development shall be considered a minor amendment. The Zoning Administrator shall make a decision on a request for a minor amendment in accordance with § 10-4-3.C (Preliminary Plan). The Zoning Administrator may determine that the application shall be resubmitted as a major amendment in accordance with § 10-4-4.A (Major Amendments). Minor amendments shall include the following:

1. Any change in the proportion of land uses in the development by less than 10 percentage points.
2. Any change in the gross floor area of the development by less than five percent.
3. Any change in the building height of the development by less than five percent.
4. Any change in the proportion of the impervious coverage of the development by less than five percentage points.
5. Any change in the location or dimensions of walkways, driveways, streets, parking facilities, and loading facilities within the development by less than five feet.
6. Any change in the number of off-street parking spaces provided within the development by less than 10 percent.

§ 10-4-5 Standards for Planned Unit Developments

The Village Board, Community Development Commission, and Zoning Administrator shall evaluate applications for planned unit developments with specific written findings based on a balance of both the standards of this Section and the standards for special use permits in accordance with 10-3-3.E (Standards for Special Use Permits).

- A. The proposed planned unit development fulfills the objectives of the Comprehensive Plan, and other land use policies of the Village, through an innovative and creative approach to the development of land.
- B. The proposed planned unit development will provide walkways, driveways, streets, parking facilities, loading facilities, exterior lighting, and traffic control devices that adequately serve the uses within

Commented [JS26]: Bensenville: Unlike §10-10-6.B of the existing Ordinance, the updated Ordinance only allows amendments to the approved final plan.

Commented [JS27]: Bensenville: In contrast to the existing Ordinance, we recommend allowing the Zoning Administrator to make decisions on minor amendments to PUDs. The minor amendments discussed in this section are more narrow in scope than the minor amendments in the existing Ordinance.

Commented [JS28]: Bensenville: As discussed in the Recommendations Memo, these approval standards are distinct from the provision of community amenities in §10-4-6 below. Please note, the Village should utilize the PUD standards and the special use permit standards concurrently.

the development, promote improved access to public transportation, and provide for safe motor vehicle, bicycle, and pedestrian traffic to and from the site.

- C. The proposed planned unit development will provide landscaping and screening that enhances the Village's character and livability, improves air and water quality, reduces noise, provides buffers, and facilitates transitions between different types of uses.
- D. The proposed planned unit development will incorporate sustainable and low impact site design and development principles.
- E. The proposed planned unit development will protect the community's natural environment to the greatest extent practical, including existing natural features, water courses, trees, and native vegetation.
- F. The proposed planned unit development will be provided with underground installation of utilities when feasible, including electricity, cable, and telephone, as well as appropriate facilities for storm sewers, stormwater retention, and stormwater detention.

§ 10-4-6 Provision of Community Amenities

Planned unit developments may be granted specific exceptions from zoning district regulations if the applicant demonstrates that the development will provide amenities to the Village that are not required from conventional development applications. The amenities to be considered by the Village Board, Community Development Commission, and Zoning Administrator shall be appropriate for the scale of the planned unit development and may include, but are not limited to, the following:

- A. Establishment of community amenities, such as plazas, gardens, public art features, outdoor seating areas, pedestrian facilities, and transit facilities.
- B. Establishment of open space amenities, such as playing fields, playgrounds, swimming pools, and fitness facilities.
- C. Enhancement of the community's natural environment, including existing natural features, water courses, trees, and native vegetation.
- D. Preservation and enhancement of the community's cultural resources and historic places.
- E. Provision of public infrastructure improvements that exceed the requirements of the planned unit development, such as enhancements to rights-of-way, stormwater management systems, and sewer systems.
- F. Incorporation of sustainable development techniques, such as meeting the requirements of LEED or LEED-equivalent rating systems.
- G. Provision of residential dwelling units for affordable housing or senior housing.
- H. Provision of residential dwelling units with accessible features that exceed the requirements of the Americans with Disabilities Act.

Commented [JS29]: Bensenville: As discussed in the Recommendations Memo, this is a major clarification in the updated Ordinance to ensure that the Village receives amenities from the applicant in exchange for the flexibility of the planned unit development process.

§ 10-4-7 Expiration of Approved Planned Unit Developments

- A. Preliminary Plan Expiration. Preliminary plan approval shall expire and be revoked if a complete application for the final plan has not been approved within one year after approval of the preliminary plan by the Village Board. The applicant may extend this one-year period by means of a written request filed with the Zoning Administrator at least 30 days prior to the expiration of the period, which shall be approved by the Village Board.
- B. Final Plan Expiration. Final plan approval shall expire and be revoked if a building permit has not been approved within one year after approval of the final plan by the Village Board. The applicant may extend this one-year period by means of a written request filed with the Zoning Administrator at least 30 days prior to the expiration of the period, which shall be approved by the Village Board.

CHAPTER 5: NONCONFORMITIES

§ 10-5-1 Purpose

§ 10-5-2 Applicability

§ 10-5-3 Nonconforming Uses

§ 10-5-4 Nonconforming Structures

§ 10-5-5 Nonconforming Lots of Record

§ 10-5-1 Purpose

The purpose of this Chapter is to regulate uses, structures, and lots that were in compliance with previous zoning regulations, but do not conform to current zoning regulations as a result of adoption of or amendments to this Ordinance. The intent of this Chapter is to specify the circumstances under which legal nonconforming uses, structures, and lots may be continued, altered, or expanded as well as circumstances under which such nonconformities shall be gradually eliminated.

§ 10-5-2 Applicability

A. Authority to Continue.

1. Any use, structure, or lot that was established legally as of the effective date of this Ordinance, or its subsequent amendments, may continue as long as it remains lawful.
2. Any use, structure, or lot that was established legally as of the effective date of this Ordinance, or its subsequent amendments, and has been made nonconforming due to the regulations of this Ordinance, or its subsequent amendments, is a legal nonconforming use, structure, or lot and may continue subject to the provisions of this Chapter as long as it remains otherwise lawful.
3. Any use, structure, or lot that was established illegally as of the effective date of this Ordinance, or its subsequent amendments, shall remain illegal if it does not conform with the requirements of this Ordinance.

B. Nonconforming Status. The legal nonconforming status of a nonconforming use, structure, or lot rests with the property and shall not be affected by changes in property ownership, tenancy, or management.

C. Burden of Establishing Legal Status. The burden of establishing the legal status of a nonconforming use, structure, or lot under the provisions of this Ordinance shall be the responsibility of the owner of such use, structure, or lot.

§ 10-5-3 Nonconforming Uses

A. Applicability. A legal nonconforming use is the use of land or a structure that at one time conformed to applicable zoning regulations, but no longer conforms due to subsequent amendments to this Ordinance.

B. Expansion of Use. A legal nonconforming use shall not be expanded, enlarged, or increased in intensity to include any land area or structure not previously occupied by such legal nonconforming use.

C. Relocation of Use. A legal nonconforming use shall not be relocated on the same lot or any other lot unless the relocation of such use meets the requirements of the zoning district in which the use is relocated.

Commented [JS30]: CMAP Legal: Is it necessary to include the condemnation standards from § 10-16-6 of the existing Ordinance in the proposed Ordinance.

Commented [MJ31]: Bensenville: The current Ordinance allows for ordinary repairs and maintenance on any building or structure that is devoted in whole or in part to a nonconforming use (§10-16-3.A). As discussed in the Recommendations Memo, the updated Ordinance makes a distinction between items that apply to uses vs buildings and structures.

Commented [MJ32]: Bensenville: We did not include the standard regarding extension of hours of operation from § 10-16-3.C.1 of the existing Ordinance, which should be managed through the Village's business licensing standards.

- D. **Damage or Destruction of Use.** In the event that any structure devoted in whole or in part to a legal nonconforming use is damaged or destroyed to the extent of 50 percent or more of its replacement value, then the use cannot be continued unless it meets the requirements of the zoning district in which the use is located.
- E. **Change of Use.** A legal nonconforming use shall not be changed to any other use unless the use is allowed within the zoning district in which the use is located.
- F. **Discontinuation or Abandonment of Use.** If a legal nonconforming use is discontinued, or the structure that it occupies becomes vacant or remains unoccupied for a continuous period of at least six months, such use shall be deemed abandoned and shall not be reestablished regardless of the intent to continue the use. Any period of discontinuance or abandonment caused by a government action or an act of nature shall not be included in the six-month period. Any subsequent use or occupancy of such land or structure shall meet the requirements of the zoning district in which the use is located.

§ 10-5-4 Nonconforming Structures

- A. **Applicability.** A legal nonconforming structure is a principal or accessory structure that at one time conformed to applicable zoning regulations, but no longer conforms due to subsequent amendments to this Ordinance. For the purposes of this Section, legal nonconforming structures shall include nonconforming signs, on-site development, off-street parking and loading facilities, and landscape characteristics.
- B. **Ordinary Maintenance and Repair.** Ordinary maintenance and repair may be performed on any legal nonconforming structure provided that such activities will not create any new nonconformity or increase the degree of any existing nonconformity.
- C. **Structural Alterations, Enlargements, and Additions.** Structural alterations, enlargements, and additions shall not be performed on any legal nonconforming structure, except in the following situations:
1. When the alteration, enlargement, or addition is required by law or is necessary to restore the structure to a safe condition upon the order of any official representative of the Village.
 2. When the alteration, enlargement, or addition is for the purpose of creating a conforming structure.
 3. When the alteration, enlargement, or addition will not create any new nonconformity or increase the degree of any existing nonconformity.
 4. When the alteration, enlargement, or addition expands the existing perimeter walls of a legal nonconforming single-family or two-family residential structure, provided that it meets the following conditions:
 - a. The resulting structure will not create any new nonconformity or increase the degree of any existing nonconformity.
 - b. The resulting interior side setback is no less than 50 percent of the required interior side setback.
 - c. The resulting front, corner side, or rear setback is no less than 75 percent of the required front, corner side, or rear setback.
 5. When the alteration, enlargement, or addition develops a sustainable accessory structure, such as a rainwater cistern, small wind energy system, or solar energy collection system.

Commented [MJ33]: Bensenville: As discussed in the Recommendations Memo, this is a new provision of the Ordinance to allow the Village to formally regulate nonconformities outside of principal and accessory structures. We did not include the special provisions for fences (10-14-11.B) and driveways (§ 10-16-2.B) from the existing Ordinance.

Commented [MJ34]: Bensenville: This is a new addition to the Ordinance that we recommend including to facilitate investment in nonconforming single-family and two-family homes. This provision allows alterations, enlargements, and additions within the existing footprint of the building under certain conditions.

- D. Relocation. A legal nonconforming structure shall not be relocated on the same lot or any other lot unless the relocation of such structure meets the requirements of the zoning district to which the structure is relocated.
- E. Damage or Destruction.
1. In the event that a legal nonconforming structure is damaged or destroyed to the extent of 50 percent or more of its replacement value, then the structure may not be repaired unless it meets the requirements of the zoning district in which the structure is located.
 2. In the event that a legal nonconforming structure is damaged or destroyed to the extent of less than 50 percent of its replacement value, the structure may be repaired provided that:
 - a. The repairs will not create any new nonconformity or increase the degree of any existing nonconformity.
 - b. A building permit is obtained for such repairs within one year of the date of damage or destruction, and such repairs are completed within one year of issuance of the building permit.
 3. The replacement value of the legal nonconforming structure shall be established by:
 - a. The sale of the structure within the previous year, or if that is not applicable;
 - b. An appraisal of the structure within the last two years, or if that is not available;
 - c. The amount for which the structure was insured prior to the date of damage or destruction, or if that is not available;
 - d. An alternative method determined acceptable by the Village.
- F. Discontinuation or Abandonment of Nonconforming Signs. A legal nonconforming sign may not remain in use if the property on which the sign is located is vacant and unoccupied for a period of three months or more.

§ 10-5-5 Nonconforming Lots of Record

- A. Applicability. A legal nonconforming lot of record is a lot of record that at one time conformed to applicable zoning regulations, but no longer conforms due to subsequent amendments to this Ordinance.
- B. Contiguous Nonconforming Lots of Record. If two or more contiguous lots of record are owned by a single party, or by related parties, and one or more of the lots does not meet the requirements for lot area or lot width as established by this Ordinance, then the lots of record shall be developed as a single entity. A building permit shall not be issued for the development of such contiguous lots of record in violation of this Section.
- C. Individual Nonconforming Lots of Record in Residential Districts. In the R-1, R-2, R-3, and R-4 Districts, a single-family dwelling unit and its accessory structures may be developed on a legal nonconforming lot of record provided that the owner of that lot of record, or a related party, does not own any lots of record that are contiguous to the subject lot of record and that the principal structure meets all of the bulk and yard requirements of the zoning district in which it is located.