

**ARTICLE XII
CONDITIONAL USES**

12.1 PURPOSES

- A. Certain uses cannot be allowable generally in a particular zoning district, or in any zoning district, because of the impact their special character creates on surrounding areas.
- B. Some such uses may, however, be allowed under special conditions. These uses are provided for in this Ordinance as conditional uses.
- C. Because a conditional use is compatible with the applicable zoning district only under special conditions, a conditional use Permit is required before any use authorized herein as a conditional use may be established.
- D. Except as specifically provided herein, all regulations of the applicable zoning district, and all other applicable regulations of this and other Village ordinances, shall apply to conditional uses.

12.2 EXISTING CONDITIONAL USES

- A. Conditional uses existing on the effective date of this Ordinance shall be considered lawful conditional uses without the need for approval of a Conditional Use Permit.
- B. Any expansion of, addition to, or structural alteration of such a use shall, however, require the approval of a Conditional Use Permit.

12.3 APPROVAL PROCEDURE

- A. The following regulations apply to all conditional uses except planned unit developments, for which separate provisions are set forth in this Ordinance.
 - 1. Optional Pre-Filing Fee
 - a. Prior to filing an application for a Conditional Use Permit, an applicant may request a Pre-Filing Conference with the Plan Commission. An application for the Conference together with the filing fee shall be submitted to the Zoning Administrator.
 - b. At the Conference, the applicant may outline his proposed project and submit preliminary information. The Plan Commission shall advise the

applicant concerning in what respects his proposal conforms to applicable Village plans and ordinances and to desired standards of design.

- c. In the event an application for a Conditional Use Permit is subsequently filed, the Conference filing fee will be credited toward the application filing fee.

2. Fees

- a. All applications shall be accompanied by a filing fee determined from time to time by the Village Board. A schedule of current fees shall be made available in the Offices of the Village Clerk and the Zoning Administrator.
- b. An applicant shall also pay a cash deposit determined from time to time by the Village Board to be applied against any additional costs necessary for the processing of the application, such as consulting engineering services, consulting planning services, legal services, or court reporter services.
- c. Any costs incurred in excess of the-cash deposit shall be invoiced by the Village to the applicant who shall be responsible for payment of the invoice upon its receipt.
- d. No application shall be processed until the applicant has first exhibited a receipt of the Village Clerk showing payment of the filing fee and cash deposit.

3. Contents Of Application

- a. An application for a Conditional Use Permit for any property shall be filed with the Zoning Administrator and shall contain the following information:
 - (1) The name, address, and phone number of the applicant
 - (2) A complete disclosure of interests as provided under Requirements for All Applications in the Administration section herein
 - (3) A recent plat of survey (one year or less) and legal description prepared by a registered land surveyor of Illinois showing all the improvements thereon as it exists as of the date of application
 - (4) A typewritten list of all property owners within two hundred and fifty (250) feet of the property
 - (5) The zoning district classifications of the property and of all other properties within two hundred and fifty (250) feet thereof
 - (6) Descriptions of the existing use of the property and of the proposed conditional use
 - (7) A site plan showing the locations of all structures, parking and loading areas, open spaces, landscaping, yards, refuse and

service areas, utilities, signs, and traffic accesses and circulation ways.

- (8) Architectural renderings or sketches illustrating the appearance of the proposed use, as required by the Plan Commission
- (9) A narrative statement evaluating:
 - (i) the environmental and economic effects that noise, glare, odor, vibration, traffic generation, or other characteristics of the proposed use will have on nearby properties
 - (ii) the general compatibility of the proposed use with nearby properties
 - (iii) the compatibility of the proposed use with the Village Official Comprehensive Master Plan.
- (10) Any other information the Plan Commission may require to determine if the proposed use meets the requirements herein.

4. Staff Review

The Village Planner may, together with other departments and officials of the Village, prepare a written review of the application, provided such review is completed and forwarded to the Plan Commission within ten (10) days of receipt of the application.

5. Public Hearing

Upon receipt of a complete and accurate application, the Zoning Administrator shall set a date for a public hearing before the Plan Commission and shall transmit the application to the Plan Commission.

6. Public Notice

a. Sign Display

- (1) The applicant shall post a sign in the front yard of the affected property, facing a public street and no further than thirty (30) feet therefrom.
- (2) The sign shall plainly state the type of zoning action requested and the scheduled date, time, and location of the public hearing thereupon.
- (3) The sign shall have length and width dimensions of at least four (4) feet and eight (8) feet.
- (4) The sign shall be erected no less than fifteen (15) days prior to the date of the scheduled public hearing and remain continuously in place until the public hearing is concluded but no more than ten (10) days thereafter.

b. Written Notification

The Zoning Administrator shall, not more than thirty (30) days nor less than fifteen (15) days before the hearing, send written notice to the persons appearing on the list furnished by the applicant which notice shall contain:

- (1) the name and address of the applicant
- (2) the street address and legal description of the property affected by the application
- (3) the type of conditional use requested
- (4) the date, time, and location of the public hearing thereupon

c. Newspaper Publication

The Zoning Administrator shall publish a notice of the public hearing in the newspaper of general circulation in the Village at least fifteen (15) days but no more than thirty (30) days before the scheduled date of the hearing.

7. Plan Commission Action

The Plan Commission shall hold a public hearing on the application. Within sixty (60) days after the close thereof, the Commission shall submit to the Village Board findings of fact relating to the Conditional Use Criteria herein, a recommendation for action, and any conditions or restrictions relating to the recommendation.

8. Village Board Action

a. The Village Board shall not act upon any Conditional Use Permit application until either it has received a report thereupon from the Plan Commission or sixty (60) days have elapsed from the close of the public hearing. The Village Board shall not approve the Permit application unless it finds that the proposed use meets applicable Conditional Use Criteria herein.

b. The Board may make its approval of a conditional use subject to any conditions or restrictions it finds necessary to assure the use will be compatible with its vicinity. The Board may also set time limits within which such conditions or restrictions must be complied with.

9. Issuance Of Permit

The Zoning Administrator shall issue a Conditional Use Permit directly after approval thereof by the Village Board unless the Village Board in approving the conditional use has directed otherwise. Such Permit shall specify any conditions, restrictions, and time limits to which the Board has made the Permit subject.

10. Resubmission

No application for a Conditional Use Permit that has been denied by the Village Board shall be resubmitted within one year of the date of that denial except on the grounds of new factual evidence or a change in conditions found to be valid by the Plan Commission.

11. Revocation Of Permit

A Conditional Use Permit may be revoked by the Village Board:

- a. if any conditions or restrictions are not complied with within the time limit specified on the Permit
- b. if after they are initially complied with, compliance with such conditions or restrictions is not maintained at any time
- c. if the conditional use is not established, or a required Building Permit is not obtained and building started, within one year of the date the Permit is issued
- d. if the conditional use shall cease for more than one year
- e. if prior to the issuance of any required Building Permit, the conditional use permittee transfers his interest in the property to another party.

12. Expansion Or Alteration

Any expansion, enlargement, or structural alteration of a conditional use shall require an additional Conditional Use Permit.

12.4 CONDITIONAL USE CRITERIA

A. Criteria For All Conditional Uses

In evaluating the suitability of a proposed conditional use, the Village Board shall examine the following characteristics of the proposed use and its individual structures or components:

1. Location and orientation
2. Lot size
3. Size of facility, including floor area, structure height, design capacity, and anticipated employment
4. Site design and arrangement

5. Provisions affecting on and off-site pedestrian and traffic movement, vehicle storage, and the passage of emergency vehicles
 6. Appearance
 7. Screening or landscaping
 8. On or off-site buffering from incompatible uses with open spaces or transitional uses
 9. Operations factors, such as hours of use or environmental controls
 10. Other characteristics of the proposed use pertinent in the judgment of the Board to an assessment of the impact of the use on the area.
- B. Before approving a conditional use, the Board shall determine that on the basis of the above characteristics, or changes to the above characteristics that the Board shall require, the proposed use will be compatible with existing uses in the area, and with Permitted Uses in the zoning district, in the following ways:
1. Traffic

Any adverse impact of types or volumes of traffic flow not otherwise typical in the zoning district has been minimized.
 2. Environmental Nuisance

Any adverse effects of noise, glare, odor, dust, waste disposal, blockage of light or air, or other adverse environmental effects of a type or degree not characteristic of Permitted Uses in the zoning district, have been minimized.
 3. Neighborhood Character

The proposed use will fit harmoniously with the existing natural or man-made character of its surroundings, and with permitted uses in the zoning district. The use will not have undue deleterious effect on the environmental quality, property values, or neighborhood character already existing in the area or normally associated with permitted uses in the district.
 4. Public Services and Facilities

The proposed use will not require existing community 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. Public Safety and Health

The proposed use will not be detrimental to the safety or health of the employees, patrons, or visitors associated with the use nor of the general public in the vicinity.

6. Other Factors

The proposed use is in harmony with any other elements of compatibility pertinent in the judgment of the Board to the particular conditional use or its particular location.

7. The Plan Commission may recommend, and the Board may make its approval contingent upon, any modifications, conditions, or restrictions relating to any of the above characteristics of the use to minimize its adverse impact in the location proposed.

8. The Commission or the Board may call upon technical experts or have studies performed to determine specific development standards or conditions for any particular conditional use.

B. Criteria For Specified Conditional Uses

In addition to the foregoing general criteria, the criteria to follow shall apply to specified conditional uses.

1. Child Day Care Centers

a. The location and design of child day care centers in Residence Districts shall minimize the problems of traffic generation in residential areas and minimize the nuisance to nearby residents of noise from outdoor play areas.

b. Child day care centers in Commercial and Office Districts shall be so located or protected from other business uses and the traffic they generate that they provide a healthy and safe environment for children.

2. Mortuaries

a. Arterial Street Location

A mortuary shall be located only on an arterial street as designated on the Comprehensive Plan of the Village. Where possible, a mortuary

should be located on a corner lot for vehicular access and exit of the funeral procession.

b. Minimum Lot Area

Minimum lot area shall be three hundred percent (300%) of the gross floor area of the mortuary.

c. Off-Street Parking

(1) Aisle and other space within the off-street parking area shall be adequate to allow funeral processions to be formed entirely therein without hindering traffic on public streets.

(2) The number of off-street parking spaces required shall be as provided in the Off-Street Parking and Loading Section of this Ordinance.

d. Commercial Use Regulations Apply

All regulations of this Ordinance applying generally to uses permitted in Commercial Districts, including Off-Street Parking and Signs, shall apply to mortuaries except as provided herein or as otherwise authorized by the Village.

3. Taverns or Restaurants Serving Alcohol or With Live Entertainment or Dancing

The location of such establishments is such that the problems of traffic generation and noise typically associated with such uses do not create a nuisance for nearby residential or institutional uses.

4. Zero Lot Line Development

a. Purpose

The purpose of the provisions herein governing Zero Lot Line Development are:

(1) to allow the development of single-family detached housing that makes more efficient use of land and provides more usable open space on the lot, especially where lots are smaller

(2) to assure that the design of such housing development provides a suitable environment both for its occupants and the neighborhood

(3) to thereby encourage the provision of higher-density affordable housing that is detached, that tends to be owner-occupied, and that is thereby more compatible with existing residential areas in the Village.

b. Applicability

(1) Zero lot line development of single-family detached homes may be permitted as a conditional use in the zoning districts specified in this Ordinance.

- (2) When permitted, zero lot line development allows the width of one interior side yard to be reduced to zero for the purpose of creating more usable open space on the remainder of a lot, particularly where lot areas are small.
 - (3) Zero lot line development shall be permitted only as part of an overall subdivision or planned unit development and not on isolated individual building lots.
- c. General Provisions
- (1) Side Yards Only
Only a single side yard may be reduced to zero. No front or rear yard may be reduced to zero.
 - (2) Side Yards Must Alternate
No two side yards on adjacent lots may both be reduced to zero if they abut the same side lot line.
 - (3) Width of Remaining Side Yard
The side yard not reduced to zero shall have a minimum width of fifteen (15) feet.
 - (4) Wall Maintenance Easement
 - (i) A perpetual wall maintenance easement shall be provided in every yard that is adjacent to a zero side yard in an adjoining lot.
 - (ii) The easement shall be four (4) feet in width measured from that portion of the lot line that is adjacent to a building on the other lot.
 - (iii) The easement shall be shown on the plat and incorporated into each deed transferring title to the property. Proof of recording of such easements shall be submitted to the Zoning Administrator prior to issuance of a Building Permit.
 - (iv) Obstructions otherwise permitted in interior side yards are allowed within the easement provided they do not impede access to the wall on the adjacent lot for painting, cleaning, maintenance, and repair.
 - (v) Roof overhangs may project up to two (2) feet into the easement on the adjacent lot, but the roof shall be so designed that water runoff onto the other lot is confined to the easement area.
 - (5) Wall Openings
No windows, doors, air conditioning units, or other openings shall be permitted on the side of a building abutting a zero side yard.
- d. Site Plan
- (1) Contents

A site plan at a scale of not less than one (1) inch to one hundred (100) feet shall be filed for every Zero Lot Line Development. The site plan shall include:

- (i) Lot lines and required yards
 - (ii) Location, shape, size, and height of all existing and proposed buildings, decorative walls and elements, and entrance features
 - (iii) Existing and proposed landscaping
 - (iv) Common open space and common recreation facilities, if any
 - (v) Locations of off-street parking
 - (vi) Phases of development
 - (vii) Data indicating gross and net site acreage, lot dimensions and areas, building heights and number of stories, and acreage devoted to common open space or recreation.
- (2) Site Plan Review Criteria

In addition to any other criteria the Plan Commission shall consider appropriate, the Commission may consider the following in evaluating the suitability of the site plan for a zero lot line development:

- (i) Orientation
Where possible, the building wall abutting the zero side yard faces north, allowing maximum use of the remaining yards for outdoor activities at different times of the year.
- (ii) Varied Height and Setback
Where possible, front yard depth, building height, and roof lines are varied to avoid monotonous appearance, which is more objectionable when homes are closer together and lots are smaller.
- (iii) Block Length
Shorter blocks and cul-de-sac streets are also used to reduce the monotony of site design.
- (iv) Open Space
 - 1. Where possible, lots that are particularly small are located near public parks or, in larger developments, near common open space.
 - 2. Any common areas provided shall meet requirements for ownership, maintenance, upkeep, covenants, and financial guarantees

specified in this Ordinance for common open space in planned unit developments.

12.5 RIGHTS OF APPLICANTS AND PROPERTY OWNERS

- A. Applicants for conditional uses shall have the following rights, in addition to any others they may possess in law, at any hearing before the Plan Commission.
1. To have subpoenas issued for persons to appear at the Plan Commission hearings and for the examination of documents by the person requesting the subpoena either before or at the Plan Commission hearings in accordance with the provisions and limitations provided in State Statute.
 2. To cross examine all witnesses testifying.
 3. To present witnesses on their behalf.
 4. Property owners who object to the Conditional Use applications may, upon request, be granted one (1) continuance for the purpose of presenting evidence to rebut testimony given by the applicant. The date of such continued hearing shall be at the discretion of the Plan Commission.

12.6 ENTERTAINMENT PERMITS

A. Permit Required

It shall be unlawful to use any land, building or structure to conduct, manage, stage, operate or exhibit any live show, theatrical performance or other form of live entertainment, other than entertainment provided at an adult entertainment cabaret or theater, open to the public or a segment of the public, and (1) for admittance to which a fee is charged, directly or indirectly, or (2) which is conducted, managed, staged, operated or exhibited as part of, incidental to or within the same building or structure as a business establishment without having first secured an Entertainment Permit therefore; provided, that the provisions of this section shall not apply to (1) those forms of live entertainment which are specifically regulated by another section of this Zoning Ordinance or another Ordinance of the Village or (2) which are performed at locations within the areas designated for Adult Regulated Uses. Live entertainment other than that which is (1) regulated under this Section G, (2) distinguished or characterized by its emphasis on matter depicting, describing or related to "Specified Sexual Activities" or "Specified Anatomical Areas" regulated in other sections of this Zoning Ordinance, or (3) specifically regulated by another section of the Zoning Ordinance or another Ordinance of the Village shall be permitted without having first secured an Entertainment Permit.

B. Approval Procedure

An applicant for an Entertainment Permit shall comply with the requirements of this Section G. in order to be granted an Entertainment Permit.

C. Fees

1. All applications shall be accompanied by a filing fee. as determined from time to time by the Village Board-
2. No application shall be processed until the applicant has first exhibited a receipt of the Village Clerk showing payment of the filing fee.

D. Contents Of Application

An application for an Entertainment Permit for any property shall be filed with the Zoning Administrator and shall contain the following information:

1. The name, address, and phone number of the applicant.
2. A complete disclosure of interests as provided under Requirements for All Applications in the Administration section herein.
3. A description of the existing use of the property and of the proposed entertainment.
4. A description of the general category of the proposed type of live entertainment. Examples: concert, theatrical performance, stage show.
5. A statement certifying that the entertainment is not a type distinguished or characterized by its emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" as those terms are defined in this Zoning Ordinance. No applicant shall be required to disclose the content of the proposed live entertainment other than to disclose whether the proposed live entertainment is subject to regulation as an Adult Regulated Use or another use specifically regulated by Ordinance of the Village.
6. An estimate of the maximum number of persons expected to observe the live entertainment.
7. A site plan showing the locations of all structures, parking and loading areas, open spaces, landscaping, yards, refuse and service areas, utilities, signs and traffic accesses and circulation ways.

8. A narrative statements evaluating.
 - a. the environmental and economic effects that noise, glare, odor, vibration, traffic generation, or other characteristics of the proposed use will have on nearby properties.
 - b. the general compatibility of the proposed use with nearby properties.
 - c. the compatibility of the proposed use with the Village Comprehensive Plan.
9. Any other information the Plan Commission reasonably may require to determine if the proposed use meets the requirements herein.

E. Staff Review

The Zoning Administrator may, together with other departments and officials of the Village, prepare a written review of the application, provided such review is completed and forwarded to the Village Board within ten (10) days of receipt of the application.

F. Village Board Action

1. The Village Board shall not act upon any Entertainment Permit Application until either it has received a staff report thereupon or ten (10) days have elapsed from the filing of the application. The Village Board shall act upon an Entertainment Permit Application at its next regularly scheduled meeting in which a quorum is present held not sooner than forty-eight (48) hours after the receipt of the staff report or the expiration of the ten (10) day period for review of the application by the Village staff. The Village Board shall not approve a permit application unless it finds that the proposed use meets applicable Entertainment Permit Criteria herein.
2. The Board must base its approval of an Entertainment Permit only upon Criteria set forth herein for entertainment Permits.
3. The approval or denial of an Entertainment Permit by the Village Board shall be considered final action subject to judicial review.

G. Issuance Of Permit

The Zoning Administrator shall issue an Entertainment Permit without delay after approval thereof by the Village Board.

H. Revocation Of Permit

An Entertainment Permit may be revoked by the Village Board:

1. If the applicant or any person making a representation on behalf of the applicant makes a misrepresentation of any fact in the application or in any testimony before any Board or Commission of the Village.
2. If any criteria on which the permit is approved is not complied with.
3. If after the criteria is initially complied with, compliance with such criteria is not maintained at any time.
4. If the entertainment use is not established, or a required Building Permit is not obtained and building started, within one year of the date the Permit is issued.
5. If the entertainment use shall cease for more than thirty (30) days.
6. If prior to the issuance of any required Building Permit, the entertainment use permittee transfers his interest in the property to another party.

However, no Entertainment Permit shall be revoked except after a public hearing by the Village Board after a three (3) day written notice to the permittee affording the permittee an opportunity to appear and respond to the basis for the revocation contained in the notice. The three (3) day notice provision shall commence on the day following delivery of the notice by certified mail, personal service or facsimile transmission.

I. Expansion Or Alteration

Any expansion, enlargement or structural alteration of a structure housing an entertainment use shall require an additional Entertainment Permit.

J. Entertainment Permit Criteria

In evaluation the suitability of a proposed Entertainment Permit, the Village Board shall examine the following characteristics of the proposed use and its individual structures or components and shall issue the Entertainment Permit provided the proposed use meets the following criteria:

1. The land, building or structure on or in which the live entertainment is to be performed is located within one of the following zoning districts:

- C-2 Community Commercial District
- C-3 General Commercial District

O-2 Office Park District
I Industrial District

2. No loudspeakers or sound equipment shall be used for the amplification of sound to a level discernible by the public beyond the walls of the building in which the permitted entertainment is conducted.
 3. No residential structure or any other non-conforming structure shall be converted for use for live entertainment after enactment of the provisions of this section.
 4. If the maximum audience expected exceeds twenty-five (25) people, an on-site security program, including required interior and exterior lighting plans, shall be prepared and implemented. The security program shall include the following:
 - a. The presence of an on-site manager during all business hours;
 - b. All off-street parking areas and building entries serving the entertainment use shall be illuminated during all hours of operation with a lighting system designed to provide a minimum maintained horizontal illumination of greater than one (1) foot candle of light on the parking surface and/or walkway. In the event the Entertainment Use shares its parking with other businesses, this requirement shall only apply within a radius of one hundred (100) feet from any entrance into the Entertainment Use;
 - c. All interior portions of the entertainment use shall be illuminated during all hours of operation with a lighting system designed to provide a minimum maintained horizontal illumination of not less than two (2) foot candles of light at the floor.
 5. All exterior areas of entertainment use businesses, including building, landscaping and parking areas, shall be maintained in a clean and orderly manner. Buildings and structures shall not be painted or surfaced with colors or textures or any design that would simulate a sign or advertising message.
- K. The Village Board shall deny the application for an Entertainment Use Permit for any of the following reasons:
1. The application does not meet the standards set forth in this section.
 2. An applicant or an applicant's spouse is overdue on his/her payment to the Village of taxes, fees, fines, or penalties assessed against him/her or imposed upon him/her in relation to an entertainment use.

3. An applicant has failed to provide information required on the application for the issuance of the Entertainment Use Permit or has falsely answered a question or request for information on the application form.
4. The premises to be used for the permitted entertainment has not been approved as being in compliance with health, fire and building codes by the department or agency responsible under law for investigating said compliance.
5. The required application or permit fees have not been paid.
6. The proposed location is in violation of, or is not in compliance with, any of the provisions of this ordinance including, but not limited to, the requirements under this section.

L. Expiration

An Entertainment Permit shall, by its own terms, expire one (1) year after its issuance.

M. Renewal

1. An unrevoked Entertainment Permit issued pursuant to this section may be renewed upon written application to the Planning Commission made at least thirty (30) calendar days before the expiration date of a current, valid Entertainment Permit and payment of the then current nonrefundable application fee. An Entertainment Permit shall remain valid pending the Planning Commission's consideration and the Village Board's decision if the permittee has timely filed the application for renewal with proper fee payment. For good cause, the Planning Commission may extend the time for filing a renewal application for up to ninety (90) days and may extend the prior Entertainment Permit pending decision on the renewal application.
2. The application for renewal shall supply current information with respect to each category of information required in the initial application. Within thirty (30) days from the date the renewal application for an Entertainment Permit is date stamped and received at the Community Development Department, the Zoning Administrator shall determine if it is complete, and if incomplete, shall notify the applicant in writing of its specific deficiencies. If a written determination is not provided to the applicant within thirty (30) days after it is submitted to the Community Development Department, the application shall be deemed complete.
3. The Planning Commission shall make its decision on an application for the renewal of an Entertainment Permit within three (3) months from the date the

application is deemed to be complete. The Planning Commission may recommend to extend the Entertainment Permit without change to the original conditions of approval, with amended or deleted conditions, or deny the extension.

4. All department or agency inspections, including but not limited to, health, fire, and building inspections, which are required for the Planning Commission to consider the renewal of an Entertainment Permit, shall be completed within the time limits for Planning Commission action provided in this section.
5. The Village Board shall not act upon any Entertainment Permit Application until either it has received a report thereupon from the Plan Commission or ninety (90) days have elapsed from the date the application is deemed complete. The Village Board shall act upon an Entertainment Permit Application at its next regularly scheduled meeting in which a quorum is present held not less than fourteen (14) days after (1) receipt of the Plan Commission's report or (2) the expiration of the ninety-day period from the date the application is deemed complete. The Village Board shall not approve the permit renewal application unless it finds that the proposed use meets applicable Entertainment Permit Criteria herein.
6. The Board must base its approval of a renewal of an Entertainment Permit only upon Criteria set forth herein for Entertainment Permits. The approval or denial of a renewal of an Entertainment Permit by the Village Board shall be considered final action subject to judicial review.