

## **SECTION 24**

### **CONDITIONAL USES**

#### **24.1 PURPOSE:**

The principal objective of this Zoning Code is to provide for an orderly arrangement of compatible building and land uses, and for the proper location of all types of uses required for the social and economic welfare of the Village. To accomplish these objectives, certain types and kinds of uses are classified as permitted in one or more of the various districts established by this Zoning Code. However, in addition to those uses specifically classified and permitted in each district, there are certain additional uses that may be desirable to allow because of their unusual characteristics or the service they provide the public. These additional uses require particular consideration as to their proper location in relation to adjacent established or intended uses, or to the planned development of the community, and are permitted, if at all, only as conditional uses. The conditions controlling the location and operation of such conditional uses are established by the following provisions of this Section 24. A list of uses that are allowed only as conditional uses is found in Section 11 of this Zoning Code.

#### **24.2 AUTHORITY:**

The Board of Trustees shall have authority to permit conditional uses of land or structures, or both, after receiving a recommendation from the Planning and Zoning Commission, subject to conditions contained herein, if the Board of Trustees finds that the proposed location and establishment of any such use will be desirable or necessary to the public convenience or welfare and will be harmonious and compatible with other uses adjacent to and in the vicinity of the selected site or sites.

#### **24.3 APPLICATION:**

A verified application, signed by the owner or authorized agent of the owner of the property involved, shall be filed with the Community Development Department, upon a form prescribed

therefore, which shall contain or be accompanied by all required information.

**24.4 FEE:**

Each application shall be accompanied by payment of the required fee as determined from time to time by the Board of Trustees.

**24.5 PUBLIC HEARING:**

The Planning and Zoning Commission shall hold a public hearing, pursuant to notice therefor as provided by the Illinois Municipal Code (65 ILCS 5/11-13-1, *et seq.*) and Section 21.6 of this Zoning Code. A record of pertinent information presented at the public hearing shall be made and maintained by the Community Development Department as a part of the permanent record relative to the application.

**24.6 FINDINGS OF FACT:**

The Planning and Zoning Commission shall make its findings and recommendations to the Board of Trustees within 45 days after the conclusion of the public hearing on the subject application. Before recommending any Conditional Use, the Planning and Zoning Commission and the Board of Trustees shall consider the following factors and how they are relevant to the specific conditional use being requested.

1. That the proposed use at the particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community; and
2. That the proposed use will not, under the circumstances of the particular case, be detrimental to the health, safety, morals or general welfare of persons residing or working in the vicinity, or injurious to property values or improvements in the vicinity; and

3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district; and
4. The extent to which the conditional use is harmonious and compatible with the goals and objectives of the Village's comprehensive planning documents; and
5. The amount of traffic congestion or hazards, if any, that may occur as a result of the conditional use, as well as the extent and adequacy of pedestrian and vehicular access and circulation; and
6. The extent that the conditional use can be adequately served by essential public facilities and services, and by private utilities; and
7. That the proposed use will comply with the regulations and conditions specified in this Zoning Code for such use, and with the stipulations and conditions made a part of the authorization granted by the Board of Trustees; and
8. Any other criteria as identified in this Zoning Code.

Conditional use requests by and for religious use property do not have to affirmatively prove the public convenience requirement listed above. Religious property is property that is currently used or proposed to be used as a church, synagogue, or other place of worship by a religious organization.

#### **24.7 CONDITIONS:**

The Planning and Zoning Commission may recommend and the Village Board may impose such conditions or restrictions as appear necessary to minimize the possible detrimental effects of such conditional use upon other properties in the neighborhood or community.

#### **24.8 BOARD OF TRUSTEES ACTION:**

No conditional use shall be granted by the Board of Trustees without a hearing by the Planning and Zoning Commission as

required herein or without a report having been made by the Planning and Zoning Commission to the Board of Trustees, and every such report shall be accompanied by a findings of fact specifying the reasons for the report.

#### **24.9 TERMINATION OF CONDITIONAL USES:**

Whenever any conditional use granted under the terms of this Zoning Code has been discontinued for a period of six consecutive months, or whenever there is evidence of an intent on the part of the owner to abandon a conditional use, such use shall not, after being discontinued or abandoned, be reestablished without notice and public hearing as provided for the establishment of conditional uses.

#### **24.10 ADULT ENTERTAINMENT ESTABLISHMENTS:**

A conditional use for an Adult Entertainment Establishment shall be subject to all of the following standards:

1. *No Direct Interference With Surrounding Development.* The proposed Adult Entertainment Establishment shall be constructed, arranged, and operated so as not to dominate the immediate vicinity or to directly interfere with the use and development of neighboring property in accordance with the applicable district regulations.
2. *Adequate Public Facilities.* The proposed Adult Entertainment Establishment will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, and police and fire protection services, or the applicant will provide adequately for such services.
3. *No Traffic Congestion.* The proposed use and development will not cause demonstrably undue traffic congestion nor draw demonstrably significant amounts of traffic through residential districts.
4. *No Destruction of Significant Features.* The proposed use and development will not directly result in the destruction, loss, or actual damage of

any natural, scenic, or historic feature of significant importance.

5. *Location Standards.*

- a. *Minimum Distance From Other Adult Entertainment Establishments.* No Adult Entertainment Establishment shall be established, maintained, or operated on any lot that has a property line within 1,000 feet of the property line of any other lot on which any other Adult Entertainment Establishment is located, established, maintained, or operated.
- b. *Minimum Distance From Protected Uses.* No Adult Entertainment Establishment shall be established, maintained, or operated on any lot that has a property line within 1,000 feet of the property line of any other lot on which a Protected Use is located, established, maintained, or operated.
- c. *Minimum Distance From Residential Property.* No Adult Entertainment Establishment shall be located, established, maintained, or operated on any lot that has a property line within 1,000 feet of the property line of any Residential Property.
- d. *Measurement.* For the purposes of this Section, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the lot on which the Adult Entertainment Establishment is located to the nearest point on a property line of (i) any Residential Property or (ii) any lot on which a Protected Use or other Adult Entertainment Establishment, as the case may be, is located, established, maintained, or operated.
- e. *Limited Exception For Subsequent Protected Uses and Residential Property.* An Adult

Entertainment Establishment lawfully operating under this Zoning Code and under the Lake in the Hills Adult Use Licensing Ordinance shall not be deemed to be in violation of the location restrictions set forth herein solely because (i) a Protected Use subsequently locates within the minimum required distance of the Adult Entertainment Establishment, or (ii) property within the minimum required distance subsequently becomes Residential Property. This Section shall not apply to an Adult Entertainment Establishment at a time when an application for an "Adult Entertainment License" under the Adult Use Licensing Ordinance for that Establishment is submitted after the License has previously expired, has been revoked, or is at that time under suspension.