

## **SECTION 13. Administration**

### **13.6 Planning and Zoning Commission**

#### **13.6-1.1 Organization**

A. **Creation**: A Planning and Zoning Commission is hereby created for the Village to carry out the duties of a plan commission and zoning board of appeals. When used in this Section, “Commission” shall be construed to mean the Planning and Zoning Commission and “Commissioners” shall be construed to mean the members of the Commission. Any ordinance, code, regulation, etc., of the Village or state statute that references the Plan Commission and/or Zoning Board of Appeals shall mean the Planning and Zoning Commission.

B. **Membership**: The Commission shall consist of seven members to be appointed by the President with the advice and consent of the Board of Trustees. The President shall be an ex-officio member of the Commission. The President, with the advice and consent of the Board of Trustees, shall appoint one Commissioner annually as the chairman. Annually, the Commissioners shall elect one of its own to serve as vice-chairman.

C. **Term of Office**: The first appointees shall serve for the following terms, or until their respective successors, in similar manner, have been appointed and qualified: one for one year, one for two years, one for three years, one for four years, one for five years, one for six years and one for seven years. Successors to each member so appointed shall serve five-year terms except that vacancies shall be filled for the unexpired term of the membership vacated. The term of each Commissioner shall expire April 30 of the year of the expiration of its respective term of office.

D. **Vacancy**: Any vacancy on the Commission shall be filled in the same manner as the original appointment.

E. **Removal**: The President, with the concurrence of the Board of Trustees, may remove any member of the Commission for cause after a public hearing before the Board of Trustees upon giving 10 days’ notice thereof to the Commissioner whose removal is to be considered.

F. **Compensation**: All members, officers and clerk of the Commission shall be compensated, as determined from time to time by the Board of Trustees. If the Commission shall deem it advisable to secure technical advice or service of any nature, or incur any expense in connection with the carrying on of its work, it may do so upon authority from the Board of Trustees and appropriation by the Board therefor.

G. **Meeting Attendance**: The President may declare vacant the term of office of an appointee who does not attend any meeting during a period of three consecutive months and/or three consecutive convened meetings.

#### **13.6-1.2 Duties of the Commission**, *amended 22-23-10*

The duties of the Commission shall be as follows:

1. Prepare and recommend to the Board of Trustees a comprehensive plan of public improvements looking to the present and future development of the Village. After its adoption by the Board of Trustees this plan shall be known as the Official Plan of the Village of Bull Valley. Thereafter, from time to time, the Commission may recommend changes in the Official Plan. This plan may include reasonable requirements with reference to the streets, alleys and public grounds in un-subdivided land situated within the corporate limits or in contiguous territory not more than 1½ miles beyond the corporate limits and not included in any municipality, as well as all other requirements permitted by law. These requirements shall be effective whenever this un-subdivided land is subdivided after the adoption of the Official Plan.

Following the adoption of the Official Plan no map or plat of any subdivision presented for recording affecting land (a) within the corporate limits of the Village, or (b) within contiguous territory which is not more than 1½ miles beyond the corporate limits of the Village, shall be entitled to be recorded pursuant to 65 ILCS 5/11-12-12.

2. Prepare and recommend a comprehensive plan of public improvements designed to meet the present and future needs of the Village, including a schedule of projects, estimate time when needed and methods of financing.
3. Give aid to the Village officials charged with the direction of projects for improvements embraced within the Official Plan and to further the making of these projects, and generally promote the Official Plan.
4. Consider and report on special and current matters relating to the development within the Village or contiguous unincorporated territory as may arise or be referred to the Commission by the President and Board of Trustees or other corporate authority prior to the passage and approval of the Comprehensive Plan.
5. Hear appeals from any order, requirement, decision or determination of the Building Inspector, relating to the Bull Valley Zoning Ordinance by any person, firm or corporation aggrieved thereby, or by any officer, department, board or commission of the Village. The appeal shall be taken within 45 days of the action complained of by filing a notice of appeal, in duplicate, specifying the grounds thereof, in the office of the Village Clerk who shall transmit forthwith one copy to the Building Inspector and one copy to the Chairman of the Commission. The Building Inspector shall forthwith transmit to the Chairman of the Commission all the papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from unless the Building Inspector certifies to the Commission that, by reason of facts stated in the certification, a stay would cause imminent peril to life or property. In such case, the proceedings shall not be stayed except by a restraining order issued by the Commission or a court of record after notice to the Building Inspector and on due cause shown.

The Commission shall select a reasonable time and place for the hearing of the appeal, give due notice thereof to all interested parties and shall render a written decision on the appeal without unreasonable delay. Any person may appear at the hearing and present testimony in person or by a duly authorized agent or attorney. The Commission may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the Building Inspector.

6. Recommend to the Board of Trustees, after holding a public hearing, on applications for variations from the strict enforcement of any provisions of the Bull Valley Zoning Ordinance, in accordance with the rules and standards set forth herein.
7. Recommend to the Board of Trustees, after holding a public hearing, on applications for special uses listed in each of the several zoning districts.
8. Recommend to the Board of Trustees, after holding a public hearing, on petitions for planned developments and to hear and decide other matters referred to it or upon which it is required to pass under the provisions of the Bull Valley Zoning Ordinance.
9. Recommend to the Board of Trustees, after holding a public hearing, on petitions for amendment of the provisions of the Bull Valley Zoning Ordinance and the boundary lines of zoning districts established therein.
10. Recommend the regulations governing the development, maintenance and future changes or redevelopment of private property.
11. Consider and report on special and current matters relating to the development within the Village or contiguous unincorporated territory as may arise or be referred to the Commission by the President and Board of Trustees or other corporate authority prior to the passage and approval of the Comprehensive Plan.
12. Study the possible growth and changes in land and building uses and in planning conditions and zoning conditions within the corporate limits or in contiguous territory not more than one and one-half (1½) miles beyond the corporate limits and not included in any municipality.
13. Transmit to the Board of Trustees, with every recommendation, findings of fact and to refer to any exhibits containing plans and specifications relating to its recommendation, which plans and specifications shall remain a part of the permanent records of the Commission. The findings of fact shall specify the reason or reasons for its recommendation. The terms of the relief recommended shall be specifically set forth in a conclusion or statement separate from the findings of fact of the Commission.
14. File immediately in the office of the Village Clerk every rule, order, requirement, decision or determination of the Commission after any meeting or hearing, which shall be a public record.

15. Nothing contained herein shall be construed to authorize the Commission to change any of the provisions of the Bull Valley Zoning Ordinance or district boundary lines established hereby. The concurring vote of four members shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector or to decide in favor of the applicant any matter upon which the Commission is authorized to act.
16. Exercise such other powers, germane to the powers granted by this Code as may be conferred by the Village and are granted a village under the Illinois Municipal Code (65 ILCS), including, but not limited to Sections 5/11-12-1 to 5/11-12-12.
17. Additional duties of the Commission are also outlined in the Bull Valley Zoning Ordinance, this Code and the Illinois Municipal Code.

#### 13.6-1.3 **Special Zoning Commission**

The Commission shall serve as a special zoning commission whenever a text amendment is proposed to the Bull Valley Zoning Ordinance.

#### 13.6-1.4 **Subdivision Compliance with Comprehensive Plan**

The Commission shall continue to operate for the purpose of enforcing this Section, and to:

1. Study the means of providing for the health, safety, comfort and convenience of the inhabitants of the Village of Bull Valley and contiguous territory; and
2. Recommend from time to time changes in the Comprehensive Plan or any part thereof; and
3. Prepare and recommend from time to time plans for special specific improvements in pursuance of the Comprehensive Plan; and
4. Give aid to the Village officials charged with the direction of projects for improvements embraced within the Comprehensive Plan, to further the making of these projects, and generally to promote the realization of the Comprehensive Plan;

#### 13.6-1.5 **Meetings**

All meetings of the Commission shall be held at the call of the Chairman and at such other times as the Commission and/or Board of Trustees may determine. The presence of four members shall be necessary for a quorum. All meetings shall be open to the public. The Chairman, or Acting Chairman, may administer oaths and compel the attendance of witnesses. The Commission shall keep minutes of its proceedings, keep record of its examinations and other official actions, prepare findings of fact and record the individual votes upon every question. Expenses incurred by the Commission in the performance of official duties are to be itemized and shall be paid by the Village or by a petition as provided in the Bull Valley Municipal Code.

**13.7 Amendments, Special Uses and Planned Developments.**

13.7-1 The Planning and Zoning Commission shall hear petitions for and recommend to the Village Board, amendments of the text of this ordinance, of the regulations imposed hereby, for the reclassification of the use districts created by this ordinance and the Zoning Map, for the reclassification of property from one use district to another, for special uses and Planned Developments under Section 6 hereof. The Village Board, the Planning and Zoning Commission, any other governmental body and any private petitioner may apply for an amendment to the text of this ordinance and in the Zoning Map made a part hereof.

**13.7-2 Hearing Procedure and Practice.** *amended 22-23-10, 2019-20-15*

- (a) All petitions shall be executed by the petitioners and verified, and accompanied by a filing fee established by the Village Board and shall contain the following information and allegations:
  - (i) The names of the owners of the real estate, including the names of the owners of the beneficial interest if a land trust;
  - (ii) property index number(s) (“PIN”) of the real estate involved;
  - (iii) A description of the location of the real estate with reference to street address, proximity to street intersections and other monuments of local knowledge;
  - (iv) The existing zoning classification, and the relationship and effect of the proposed change to and on the Official Comprehensive Plan of the Village of Bull Valley;
  - (v) The relief requested.
  - (vi) The names and addresses of owners of real estate adjacent and/or within two hundred and fifty (250) feet of the real estate involved on all sides thereof, including real estate on the opposite side of any street, alley or railroad right of way, and, in the event the petitioner or owner of the real estate involved owns any such parcel of surrounding real estate, the names and addresses of owners of real estate, adjacent to or on the opposite side of any street, alley or railroad right of way, surrounding real estate of the owner of the real estate involved.
  - (vii) Attached as an exhibit to the petition shall be a natural resource inventory report of the premises issued by the McHenry County Soil and Water Conservation District, as provided for by Section 22.02a of the Illinois Soil and Water Conservation District Law, as amended from time to time.

- (b) The petitioner shall obtain a hearing date and time from the Chairman of the Planning and Zoning Commission and publish notice of the hearing, executed by the Chairman, in a newspaper of general circulation in the Village of Bull Valley and serve by certified mail, return receipt requested, a copy thereof on said owner or owners of real estate that is adjacent and/or within two hundred and fifty (250) feet of the real estate involved, as described in subparagraph (a)(vi) above, no more than 30 nor less than 15 days prior to the hearing. In addition to the other notices provided for herein, the petitioner shall post notice of said hearing by the erection of a sign, to be provided by the Village, on the subject property for a period of not less than 15 continuous days immediately preceding the date of the hearing and not more than 30 days before the date of the hearing. The required sign shall be posted in a conspicuous place allowing unobstructed public viewing. Petitioner shall return the sign to the Village after completion of the hearing. Said notice shall contain the following information:
- (i) The name or names of the petitioner, owner or owners;
  - (ii) A brief description of the relief prayed for;
  - (iii) The information described in subparagraphs (a)(ii)-(iv), inclusive, above;
  - (iv) The date, time and location of the hearing.
  - (v) The notice and proof of publication and service shall be filed with the Chairman prior to or at the hearing.
- (c) The Planning and Zoning Commission shall hear the petition in the following order:
- (i) Petitioner and petitioner's witnesses, subject to questioning by the Commission and cross-examination by registered objectors;
  - (ii) Registered objectors and their witnesses, subject to questioning by the Commission and cross-examination by petitioner.
- (d) The Planning and Zoning Commission shall make a decision and transmit its recommendation to the Village Board no later than 30 days after the adjournment sine die of said hearing. The Chairman shall transmit to the Village Clerk and Village Attorney, no less than 10 days prior to the meeting of the Village Board at which the recommendation is to be acted upon, the report of the Planning and Zoning Commission as to the petition, setting forth its findings of fact, and refer to any exhibits containing plans and specifications, stating the reason or reasons for making its recommendation, and setting forth the relief recommended in a conclusion or statement separate from the findings of fact. Any ordinance granting such

relief in conformance with such regulations shall be accompanied by a similar report of the Planning and Zoning Commission.

**13.7-3 Village Board Action.**

- (a) The Village Board, without further public hearing, may take the following action at its meeting: accept the recommendation of the Commission; reject the recommendation of the Commission; refer the matter back to the Commission; table action thereon.
- (b) In case a written protest against any proposed amendment or reclassification, signed and acknowledged by owners of 20 percent of the frontage immediately adjoining or across an alley therefrom, or by the owners of 20 percent of the frontage directly opposite the frontage proposed to be altered is filed with the Village Clerk, the amendment or reclassification shall not be passed except by a favorable vote of two-thirds of the Village Board.
- (c) In the event of a recommendation by the Planning and Zoning Commission to grant the relief prayed for, the petitioner shall draft and submit to the Village Attorney no less than seven days prior to such meeting of the Village Board an ordinance granting such relief.
- (d) Any proposed amendment which fails to receive the approval of a majority of the Planning and Zoning Commission members, and is so reported, shall not be passed by the Village Board except by the favorable vote of three-fourths of all the elected members of the Village Board.

**13.8 Variations.** *amended 22-23-10*

- 13.8-1 (a) The Planning and Zoning Commission may determine and recommend to the Village Board variation of the application of the terms of this ordinance, including, but not limited to, variations with respect to the following: the classification, regulation and restriction of uses of land or the location of buildings designed for uses permitted by Sections 5 and 6; lot area, yard and bulk regulations set forth in Section 5.5-3; and the Flood Plain regulations set forth in Section 10. Such variation may be so determined and recommended only when the Planning and Zoning Commission finds that:
  - (i) The particular difficulty or hardship is due to the surroundings, shape or topographical condition of the property involved.
  - (ii) The conditions upon which the application for a variation are based are unique to the property and not generally applicable to other property within the same zoning district.

- (iii) The purpose of the variation is not based exclusively upon a desire to increase the monetary gain from the property.
- (iv) That the alleged difficulty or hardship is caused by application of the ordinance to the property, and not by any person or entity having an interest in the property.
- (v) That granting the requested variation will not confer on the applicant any special privilege that is denied by this ordinance to other land or structures of the same zoning district.
- (vi) That the relief prayed for will not:
  - a. Impair an adequate supply of light and air to adjacent property;
  - b. Increase the hazard from fire, flooding or other dangers to adjacent property, and violate state and local fire laws, rules and regulations;
  - c. Diminish the value of adjacent land and building or of land and building in the Village;
  - d. Impede, inhibit or increase the enjoyment, use or development of adjacent property and property in the vicinity for purposes allowed by law and this ordinance;
  - e. Substantially conflict with the prevailing character of land use of adjacent property and property in the vicinity so long as such character is allowed by law and this ordinance;
  - f. Increase the congestion of traffic hazards in the public streets and highways;
  - g. Otherwise impair the public health, safety, comfort, morals and general welfare of the inhabitants of the Village.
- (b) Petitions for variation based upon particular hardships or difficulties shall be first presented to the Building Inspector who shall testify about such difficulty or hardship and shall present a preliminary finding of fact to the Planning and Zoning Commission.
- (c) An application for variation as above described shall be made as follows:
  - (i) The applicant shall file a verified petition for variation with the Village Clerk of the Village of Bull Valley accompanied by a filing fee to be as established by the Village Board.
  - (ii) Said verified petition shall set forth the facts and details concerning the proposed variation and shall have attached thereto a diagram or plan showing the result the proposed variation would have on the



subject property. In addition, the petition shall contain the following:

1. The names of the owner of the real estate, including the name of the owners of the beneficial interest if a land trust;
2. A legal description of the real estate involved;
3. A description of the location of the real estate with reference to street address, proximity to street intersections and other monuments of local knowledge;
4. The existing zoning classification, and the relationship and effect of the proposed change to and on the Official Comprehensive Plan of the Village of Bull Valley;
5. The relief requested and, in the case of a use variation, a description of the proposed specific use;
6. The names and addresses of owners of real estate that is immediately adjacent to the real estate involved on all sides thereof, including real estate on the opposite side of any street, alley or railroad right of way and, in the event the petitioner or owner of the real estate involved owns any such parcel of surrounding real estate, the names and addresses of owners of real estate, adjacent to or on the opposite side of any street, alley or railroad right of way, surrounding real estate of the owner of the real estate involved;
7. The following allegations:
  - a. That the variation will be in harmony with the general purposes and intent of the Zoning Ordinance;
  - b. That there is a practical difficulty or particular hardship, as distinguished from a mere inconvenience, in the way of carrying out the strict letter of the Zoning Ordinance.
8. That the relief prayed for will not:
  - a. Impair an adequate supply of light and air to adjacent property;
  - b. Increase the hazard from fire, flooding or other dangers to adjacent property, and violate state and local fire laws, rules and regulations;
  - c. Diminish the value of adjacent land and building or of land and building in the Village;

- d. Impede, inhibit or increase the enjoyment, use or development of adjacent property and property in the vicinity for purposes allowed by law and this ordinance;
  - e. Substantially conflict with the prevailing character of land use of adjacent property and property in the vicinity so long as such character is allowed by law and this ordinance;
  - f. Increase the congestion of traffic hazards in the public streets and highways;
  - g. Otherwise impair the public health, safety, comfort, morals and general welfare of the inhabitants of the Village.
- (iii) Attached as an exhibit to the petition shall be a natural resource inventory report of the premises issued by the McHenry County Soil and Water Conservation District, as required by Section 22.02a of the Illinois Soil and Water Conservation District Law, as amended from time to time.
  - (iv) Said petition shall be filed prior to the date the notice of hearing hereinafter specified has been published in the local newspaper.
  - (v) The Planning and Zoning Commission of the Village of Bull Valley, through its Chairman, shall set a date, time and place for public hearing on the petition and shall inform the petitioner of same.
  - (vi) The petitioner shall cause notice of public hearing of petitioner's application to be given in the following manner:
    - 1. By publishing notice of the date, time and place of such hearing in a newspaper of general circulation in the Village of Bull Valley at least 15 but not more than 30 days prior to the hearing;
    - 2. By causing said notice to contain the particular location for which the variation is requested, as well as a brief statement describing the proposed variation. The description shall contain a simple description of the property as to area and location of such a nature to enable the ordinary reader to accurately locate such property;
    - 3. By sending copies of the notice of hearing to all property owners of property which is adjacent to, abutting, or across the road, street or alley from the property in question.

- (vii) The petitioner shall, within five days after the notice of public hearing has appeared in the local newspaper, furnish the Village Clerk with the requested number of copies of the published notice.
- (d) The Planning and Zoning Commission shall hear the petition in the following order:
  - (i) Petitioner and petitioner's witnesses, subject to questioning by the Commission and cross-examination by registered objectors;
  - (ii) Registered objectors and their witnesses, subject to questioning by the Commission and cross-examination by petitioner.
  - (iii) Should the Planning and Zoning Commission of the Village of Bull Valley recommend to the Village Board of the Village of Bull Valley that the prayer of the petition be granted, it shall be the obligation of the petitioner to cause a suitable ordinance to be drafted incorporating the finding and recommendation of the Planning and Zoning Commission of the Village of Bull Valley for the consideration of the Village Board.

**13.8-2 Village Board Action.**

- (a) No variation in any case shall be made by the Village Board without a hearing by the Planning and Zoning Commission as required herein nor without a report thereof having been made by the Commission to the Village Board, and every such report shall be accompanied by a finding of fact specifying the reasons for the report.
- (b) Upon the report of the Planning and Zoning Commission, the Village Board, without further public hearing, may adopt or deny any proposed variation or may refer the report back to the Commission for further consideration.
- (c) Any proposed variation which fails to receive the approval of four members of the Planning and Zoning Commission shall not be passed except by the favorable vote of two-thirds of all the elected members of the Village Board. In making any variation, the Village Board shall be governed by the same considerations and restrictions as set forth above.
- (d) Nothing herein contained shall be construed to give or grant to the Planning and Zoning Commission the power or authority to alter or change the zoning ordinance or any use district made a part of the zoning map, such power and authority being reserved to the Village Board, and the Commission shall not have any power or authority with respect to any alterations or change of the zoning ordinance except to make recommendations to the Village Board in such specific cases as may properly come before the Commission.

13.8-3 **Miscellaneous.**

No order for a variance permitting the erection or alteration of a building shall be valid for a period longer than six months, unless such use is established within such period provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit. No petition for variation denied may be resubmitted within one year of the denial.