

ARTICLE TWELVE: ADMINISTRATION AND ENFORCEMENT

Section 12.1 General

- 12.1.1 **Purpose:** The purpose of this Article is to establish procedures for administering and enforcing the regulations in this Ordinance.
- 12.1.2 **Zoning Board of Appeals:** The Zoning Board of Appeals shall function as described in Article Thirteen.
- 12.1.3 **Plan Commission:** The Plan Commission referred to in this Ordinance is the Tolono Plan Commission as duly created by the President and Village Board of Trustees. The Plan Commission is hereby invested with the following jurisdiction:
- A. To receive from the Village Building Official and the Village Clerk all applications required by this Ordinance.
 - B. To hold public hearings in matters pertaining to applications uses and amendments required by this Ordinance, and submit reports to the Village Board of Trustees setting forth its findings and recommendations in the manner prescribed in this Article.
 - C. To keep minutes of it's proceedings, showing the vote of each member upon every question, indicating that the member was absent or failed to vote, and shall also keep records of all it's official actions.
 - D. To file with the Village Clerk and make a matter of public record, every rule, regulation amendment, order, requirement, decision, or determination of the Plan Commission.
 - E. To initiate, direct, and review, from time to time, studies of the provisions of this Ordinance and to make reports of its recommendations to the Village Board of Trustees not less frequently than once each year.
 - F. To hear and report on all matters which it is required to consider under this Ordinance, or that which may be specifically delegated to the Plan Commission by the Village Board of Trustees.
 - G. To prepare and recommend to the Village Board of Trustees, a comprehensive plan for the Village and its peripheral area and, from time to time, to review and propose any needed amendments to the plan.

- H. To prepare and recommend to the Village Board of Trustees, from time to time, plans for specific improvements in pursuance of the official comprehensive plan.
- I. To consider all amendments to the Village's Zoning Ordinance, and make recommendations to the Village Board of Trustees.
- J. To review subdivision plans and make recommendations thereon to the Village Board of Trustees.
- K. To review the zoning and special use cases before the Champaign County Zoning Board of Appeals which are located within one and one-half miles of the limits of the Village of Tolono, and textual amendments to the Champaign County Zoning Ordinance under consideration by the Champaign County Zoning Board of Appeals, and make recommendations thereon to the Village Board of Trustees.

12.1.4 **Village Building Official:** The Building Official of the Village of Tolono, and such deputies or assistants that have been or shall be duly appointed by the Village Board of Trustees, shall enforce the Zoning Ordinance, and in addition thereto, and in furtherance of said authority shall:

- A. Issue all Building Permits and Certificates of Occupancy and make and maintain records thereof.
- B. Conduct observations of buildings, structures, and uses of land to determine compliance with the terms of this Ordinance.
- C. Issue all special permits, when authorized by the Village Board of Trustees according to this Ordinance, and keep permanent and accurate records thereof.
- D. Issue all sign permits where authorized by this Ordinance, and keep permanent and accurate records thereof.

12.1.5 **Zoning Administrator:** The Zoning Administrator shall be responsible for administering and enforcing this Ordinance, by and with the advice and consent of the Village Board of Trustees, and such duties and responsibilities as specifically delegated to other persons. The Zoning Administrator shall:

- A. Be authorized to make written interpretations of this Ordinance, records of which shall be maintained as Village records.
- B. Maintain permanent and current records of the Ordinance, including, but not limited to, all maps, amendments, variations, appeals, and applications therefor.

- C. Receive, file, and forward to the Plan Commission, applications for uses and petitions for amendments and other matters on which the Plan Commission is authorized to decide under this Ordinance, including those applications and petitions which may be filed initially in the office of the Village Building Official.
- D. Receive and transmit to the Zoning Board of Appeals copies of all applications for provisional and special uses, appeals, variations, and other matters on which the Zoning Board of Appeals is authorized to decide under this Ordinance.
- E. Carry out such other responsibilities as may be specifically delegated to the Zoning Administrator by this Ordinance, or by the Village Board of Trustees.

Section 12.2 Zoning Review and Permits

12.2.1 Zoning review - Building permits:

- A. A building permit (a copy of the Application for Building Permit and Permit to Occupy is located in the Appendix of this Ordinance) shall be obtained by the owner of any property from the Village Building Official before starting:
 1. To construct or erect a new principal structure or accessory structure or part thereof;
 2. To extend, enlarge, move, alter structurally, reconstruct a principal or accessory structure or part thereof.

Such application shall include the estimated time of completion of the work for which the building permit is requested.

- B. The Village Building Official shall review each application for a permit made prior to the issuance of the building permit. No such construction shall begin until a Permit to Build (a copy is located in the Appendix) has been issued by the Village. The application shall also be accompanied by a building permit fee, as established from time to time by the Village Board of Trustees. Each application shall be accompanied by a site plan drawn to scale (three copies) and supporting documents, with the following information:

[The information required for zoning review reflects the information needed by the Village Building Official to determine if the proposal meets the requirement of this Ordinance. The requirement that a site plan is drawn to scale is not intended to require that a licensed professional must draw the site plan. Its purpose is to provide the Village Building Official with accurate information to review the plan. Information

required for parking, landscaping, access drives, lighting, and other elements may be combined on a single site plan, or may be submitted as several separate Drawings.]

1. The full name and address of the applicant and the owner of the property and, if the owner is a corporate body, of its responsible officer.
 2. The lot occupied or to be occupied by the building or structure, the actual dimensions of the lot and a legal description of the lot.
 3. The size and location of the building or structure to be erected, converted, enlarged, or structurally altered.
 4. A statement of purpose for which the building or structure will be used.
 5. The distance from the building or structure to each lot line.
 6. The location of each parking space, loading space, and access drive required under the provisions of this Ordinance, including the dimensions of aisles and stalls.
 7. A landscaping plan for the development.
 8. Calculation of Open Space Ratio and the Floor Area Ratio.
 9. Building height.
 10. Location of trash disposal areas and screening of such areas.
 11. Lighting information for parking areas.
 12. The location of any water courses crossing or adjacent to the property, as well as the elevation and location of the top of the bank of such feature.
 13. The location of adjoining streets, adjacent zoning classifications, and land uses.
- C. No person shall be issued a building permit unless the development of land is in compliance with the Village's Subdivision Regulations.
- D. The Village Building Official shall not issue a building permit for construction within a new subdivision until the subdivider furnishes, as a condition of acceptance of the public improvements, a maintenance bond, per the requirements of Section 5.11 of the Village's Subdivision Ordinance. [Also refer to the requirements stated in paragraph 12.2.1.B.]

- E. The Village Building Official shall not issue a building permit for construction within a minor subdivision until all documentation required by Section 4.17 has been approved and all utility connections, stormwater facilities, and/or all other public improvements have been completed. [Also refer to the requirements stated in paragraph 12.2.1.B.]**
- F. The Village Building Official shall not issue a building permit for construction within a re-platted area, per Subdivision Ordinance Section 4.14, until all the re-platting formalities stated in the Subdivision Ordinance have been met and any conditions set by the Plan Commission, the Zoning Board of Appeals, and the Village Board of Trustees have also been met. [Also refer to the requirements stated in paragraph 12.2.1.B.]**
- G. The Village Building Official shall issue building permits for a Planned Unit Development per the requirements of Section 6.3.2 of this Ordinance.**
- H. The Village Building Official shall not issue a building permit for general renovation, new construction, or re-construction on existing lots until the application forms for the proposed work have been reviewed and meet the rules and regulations of this Zoning Ordinance. [Also refer to the requirements stated in paragraph 12.2.1.B.]**
- I. The Village Building Official, prior to the issuance of ANY building permit, may require any applicant to provide the location of a site or lot corner(s), set by a Professional Land Surveyor, when reviewing a building permit application.**
- J. All new buildings shall conform to the bulk regulations established herein for the district in which each building is located. Further, no existing building shall be enlarged, reconstructed, structurally altered, converted, or relocated in such a manner as to conflict, or further conflict with the bulk regulations of this Ordinance for the district in which such building shall be located.**
- K. It shall be unlawful to reduce or diminish the area of a lot or plat for which a plat plan has been filed and has been used as the basis for a permit, unless a revised plat plan showing the proposed changes in conditions shall have been filed and approved.**
- L. Where a building permit for a building or structure has been issued in accordance with law prior to the effective date of this Ordinance, and provided that construction is begun within three months of the effective date of this Ordinance and diligently prosecuted to completion, said building or structure may be completed in accordance with the approved Drawings on the basis of which the building permit has been issued, and further, may upon completion be occupied under a Certificate of Occupancy by the use for which originally designated; subject thereafter, if applicable, to the provisions herein for nonconforming buildings, structures, and uses.**

- M. Where the Village Building Official has issued a building permit for a permitted, provisional, or special use, such permit shall become null and void unless work thereon is under way within six months of the date of issuance of such permit.
- N. All building permits shall expire in one year from the date of issuance. All work not completed within said period shall require the issuance of a new permit, at the then prevailing rate.
- O. Normal repairs not involving structural alterations may be made without a permit.

12.2.2 Zoning review - Occupancy permits:

- A. A Certificate of Occupancy shall be applied for coincident with the application for a building permit. Upon completion of any construction, reconstruction, structural alteration, enlargement, expansion or other work on a building or structure for which a building permit was issued, the Village Building Official shall consider the previously submitted application for a Certificate of Occupancy.
- B. No such building or structure shall be occupied, and no change shall be made in the use of the land, structure or building, until a Certificate of Occupancy authorizing such occupancy or use has been issued by the Village Building Official.
- C. The Village Building Official shall not issue a Certificate of Occupancy unless the building or structure, as built, enlarged, extended, structurally altered, reconstructed or moved, complies with all Drawings and specifications included in the application for the building permit. Any variance which may have been granted for the building or structure shall be noted on the application, and on the Certificate, if issued.
- D. The Village Building Official shall not issue a Certificate of Occupancy for any building or structure within a new subdivision until all the construction requirements which follow are completed:
 - 1. The building construction has been completed, including all ancillary structures such as the sidewalks (that are part of the subdivision proper), driveways, etc.
 - 2. The water, wastewater, natural gas and electric utilities are connected to and functional for the building.
 - 3. The final site grading has been completed and verified against the elevations shown on the construction Drawings, by the Village Building Official, with assistance from the Village Engineer.

4. In accordance with Section 5.12.B. of the Village's Subdivision Ordinance, the Village has accepted the dedication of all the required public improvements for the subdivision.
- E. No land shall be occupied or used, and no building hereafter erected or altered shall be occupied or used, in whole or in part, for any purpose whatsoever until a Certificate of Occupancy has been issued by the Village Building Official stating that the building complies with all the building and health laws and ordinances, and with the provisions of this Ordinance and amendments thereto.
- F. Nothing in this section shall prevent the continuance of the present occupancy or use of any existing building, except as may be necessary for safety of life and property.
- G. If the application for a Certificate of Occupancy involves a change of use, the Village Building Official shall not issue the Certificate of Occupancy unless the proposed use or uses is conforming in the district in which it is proposed to be located. If a provisional use or special use permit was granted to authorize the proposed use, it shall be so noted on the application, and on the Certificate of Occupancy, if issued.
- H. The Certificate of Occupancy issued by the Village Building Official shall state upon its face the precise purpose or purposes for which the building, structure or land shall be used.
- I. Any transfer of ownership of the building, structure or land which does not involve a change of use shall automatically effect a transfer of the Certificate of Occupancy to the new owner.

12.2.3 Zoning review - Other permits:

- A. Applications for electrical, plumbing, heating, ventilating, air conditioning, refrigeration, gas piping, sprinkler and storm water permits, and any other similar permits (which may be required now or required in the future) authorizing a change in a building or property shall contain a statement indicating the existing and proposed use for which the building, structure, or improvement to the land will be used. The Village Building Official and the Zoning Administrator shall review each application which indicates a change of use, even if the proposed permit does not indicate a change in the exterior elements of the property. The permit shall be issued subject to zoning approval. No such permit issued which purports to authorize a use, structure, or improvement to the land not in compliance with the requirements of this Ordinance shall be valid.

[This Section adds the requirement that if any other type of permit will result in a change of use, that such permit will also require zoning review. This is intended to prevent illegal conversions in single-family areas, as well as catch new uses in commercial areas that may not meet parking or other performance standards.]

- B. Proposed provisional uses and special uses shall meet the requirements of Article Five.
- C. Proposed residential Planned Unit Developments shall meet the requirements of Article Six.

12.2.4 Zoning approval - Determination:

- A. The Drawings submitted for zoning approval shall be reviewed by the Zoning Administrator to determine the following:
 - 1. That, as best can be determined, complete and accurate information as required in this Article is provided with the permit application.
 - 2. That the proposed structure, or land improvement is either entirely occupied by a conforming use or; that if the structure is occupied wholly or partly by a nonconforming use, that such is allowed under and complies with the regulations of Article Eleven.
 - 3. That the proposed structure, or land improvement complies with the applicable height, area, floor area ratio, open space ratio, yard, landscaping, and parking regulations as required by this Ordinance.
 - 4. That the structure, or land improvement comply with specific standards or conditions required through a provisional or special use approval as authorized by this Ordinance.
 - 5. That the proposed structure, or land improvement complies with any and all other applicable standards as required by this Ordinance.
- B. Upon a determination that all of these requirements are met or not met, the Zoning Administrator shall approve or disapprove the permit and note this on the application. The Zoning Administrator shall indicate those uses that are nonconforming. Such approval shall reference action by the Zoning Board of Appeals or the Village Board of Trustees which may have imposed specific conditions as authorized by this Ordinance. No permit which requires review under the provisions of this Ordinance shall be issued unless it has received such approval.

12.2.5 Limitations of zoning approval:

- A. **Suspension of permits.** Any zoning approval shall become invalid if the authorized work is not commenced within six months after the issuance of the permit, if the authorized work is suspended or abandoned for a period of six months after the time of commencing the work, or if the work is not completed within one year after the issuance of the permit.
- B. **Revocation of zoning approval.** Zoning approval issued under the provisions of this Ordinance, and any permit issued pursuant to such approval, shall be revoked in case of any false statement, misrepresentation of fact, or error in the application or on the Drawings based on which the permit was issued.

[The intent is that the Village will rescind any and all permits or zoning approvals that were obtained in an illegal manner.]

- C. **Revocation of permits.** Any building occupancy or other permit issued pursuant to an approved site plan or in conjunction therewith, may be revoked by the Village for failure to comply with the conditions of approval.

[The intent of the Village is that the terms of any issued building, occupancy, and other permits be followed by the permittee.]

Section 12.3 Violations

12.3.1 **Violations - types:** No person shall construct, alter, use, maintain, or allow any building or property to be used or maintained in violation of the provisions of this Ordinance. In addition to any other actions which may constitute a violation, the following constitute violations of this Ordinance and shall be strict liability offenses:

- A. The use, arrangement, or construction of a building, structure, or improvement to land does not conform with that authorized by approved Drawings.
- B. The improvement is constructed or a use is operating without obtaining the appropriate permits or zoning approval.
- C. The use of a structure or land which is nonconforming and does not meet the requirements of Article Eleven.
- D. The use of the structure or land which is a conforming use, but does not meet the applicable district performance standards or other requirements of this Ordinance, unless otherwise provided for in Article Eleven.

- E. The use of the structure or land does not comply with conditions or standards enumerated in a provisional, or special use approval.
- F. The sale, conveyance, or use of any portion of a lot which reduces the following:
 - 1. The lot area below the minimum area requirements of this Ordinance.
 - 2. The lot area to the extent that the floor area ratio is greater than the maximum permitted by this Ordinance.
 - 3. The usable open space areas below the open space ratio and usable open space requirements of this Ordinance.
 - 4. The depth or width of a yard to less than the minimum depth or width required by this Ordinance.
 - 5. The number and size of parking spaces on the lot is below the minimum number of such spaces required by this Ordinance.

12.3.2 Presumptions for violations: The following shall be presumed for assessing the existence and length of a violation:

- A. Persons are presumed to be fully aware of the provisions and regulations of this Ordinance and ignorance of such does not exempt such persons from the enforcement action provided for in this Ordinance.
- B. A violation shall be presumed to have existed from the earliest date that can be legally established through the following means:
 - 1. The date of issuance of a notice of violation by the Village Building Official or the Zoning Administrator.
 - 2. The date of a license, permit, registration, inspection report, or other documentation from any governmental agency in relation to the offense or that permits a use that would not otherwise be permitted in the Ordinance.
 - 3. The date of any advertisement, correspondence, or other documentation generated by the establishment announcing or describing the nonconforming operation of that establishment.
 - 4. The date of collection or reporting of taxes, fees, or other payments to any agency in relation to the offense.

5. Any other documentation that can establish the existence of the nonconforming operation.
- C. A separate offense shall be deemed committed on each day during which a violation of this Ordinance occurs or continues after it has been established that the violation existed in accordance with this Article, unless the person charged establishes that the violation did not occur on a subsequent date or dates.
- D. Enforcement action on a violation may be initiated against the owner, whether legal, equitable, or in the case of an Illinois land trust, a beneficial interest, a tenant, occupant, or other person with ownership interest in or control of the property.

12.3.3 Notice of violation: Whenever the Village Building Official or the Zoning Administrator determines that there has been a violation of this Ordinance, or has reasonable grounds to believe that a violation has occurred, notice shall be given to the owner or the person or persons responsible therefore in the manner prescribed below. Such notice shall:

- A. Be in writing.
- B. Include the date the violation is established and the date the notice is served.
- C. Include a description of the real estate sufficient for identification.
- D. Include a statement of the reason or reasons why the notice is being issued, including the Article of this Ordinance that is being violated.
- E. Include a correction order allowing a reasonable time for the action, not to exceed sixty days as determined by the Zoning Administrator, as is necessary to bring the property into compliance with the provisions of this Ordinance or otherwise cease the violation. Additional time for compliance may be allowed with the approval of the Zoning Board of Appeals or the Village Board of Trustees.
- F. Include an explanation of the owner(s) or person(s) charged with the violation the right to appeal the notice to the Zoning Board of Appeals.

12.3.4 Service of notice: Such notice shall be deemed to be properly served upon such owner or person charged if:

- A. A copy thereof is personally delivered to the owner(s) or person(s) charged; or
- B. The notice is left at the usual place of abode, in the presence of a resident of suitable age and discretion who shall be informed of the contents thereof; or

- C. The notice is sent by registered mail addressed to the owner(s) or person(s) charged at their last known address; or
- D. If the letter is returned showing that it has not been delivered, by:
 - 1. Posting a copy thereof in a conspicuous place in or about the structure affected by such notice; and
 - 2. At least one publication of such notice in a local newspaper of general circulation.

Section 12.4 Enforcement

12.4.1 Authority to enforce the Ordinance:

- A. This Ordinance shall be enforced by the Zoning Administrator. Any person violating any of the provisions of this Ordinance shall, upon conviction thereof, be fined in an amount not exceeding five hundred dollars (\$500.00). Each day such violation is committed or permitted to continue shall constitute a separate offense.
- B. The owners of the land upon which a violation of this Ordinance has occurred or is occurring shall be prima-facie responsible for such violations of this Ordinance which occur on property owned by such persons; provided, however, the foregoing shall not be construed to relieve the occupants, or any of them, of the land upon which the zoning violation has occurred or is occurring of the responsibility for such violation under this Ordinance.
- C. When a person receives a notice of a violation and does not comply with the order to correct the violation within the specified time, the Zoning Administrator may elect to proceed under any one, or combination of, the enforcement measures described within this Ordinance or otherwise authorized by law to seek correction of the violation or punishment for the offense or both. Nothing in this Article shall prevent private action pursuant to provisions in the Illinois Compiled Statutes.
- D. When necessary, the Village Building Official or the Zoning Administrator, after investigation and recommendation, may inform the Village Attorney, who, after review, may institute any appropriate action or proceeding in law or equity to restrain, correct, or abate such violation, or to recover an appropriate fine for violation of this Ordinance.

12.4.2 Fines: The Court may impose a fine on any person convicted of violating any of the terms or provisions of this Ordinance. A separate violation shall be deemed to have been committed on each day from the date the violation was determined to be legally established as specified in this Article.

12.4.3 Stop work orders: Both the Zoning Administrator and the Village Building Official shall together have the authority to issue a Stop Work Order to any person they have reasonable grounds to believe is committing or has committed a violation of this Ordinance.

12.4.4 Injunctions, restraining orders, and other proceedings: In addition to other remedies, the Village Attorney may institute any appropriate action or proceeding which:

- A. Prevents the unlawful construction, reconstruction, alteration, repair, conversion, maintenance, or use of a structure;
- B. Prevents the occupancy of the building, structure, or land;
- C. Prevents any illegal act, conduct, business, or use in or about the premises;
- D. Restrains, corrects, or abates the violation.

In any action or proceeding for a purpose mentioned in this Article, the Village Attorney may request the court with jurisdiction of such action or proceeding to issue a restraining order, or a preliminary injunction, as well as a permanent injunction, upon such terms and under such conditions as will enforce the provisions of this Ordinance.

12.4.5 Suspension of licenses and permits: If a violation has been determined to exist and the operation has been issued any type of license or permit by the Village Board of Trustees, the Village Board of Trustees may suspend such license or permit.

12.4.6 Notice to appear: The Zoning Administrator shall have the authority to issue a Notice to Appear at a designated meeting of the Zoning Board of Appeals, to any person the Zoning Administrator has reasonable grounds to believe is committing or has committed a violation of this Ordinance.

12.4.7 Settlement or private action: Nothing in this Article shall preclude the Village from negotiating a settlement of a violation. Such settlement may either be negotiated or may be a consent decree.

Section 12.5 Fees

The schedule of fees for various actions taken under the provisions of this Ordinance shall be as found in the Village's Zoning Fee Ordinance, as may be amended from time to time by the Village Board of Trustees.

Section 12.6 Validity

That if any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not effect any other section, paragraph, clause or provision of this Ordinance.

Section 12.7 Repeal of Conflicting Ordinances

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed insofar as the conflicting portions are concerned.

Section 12.8 Effective Date

This Ordinance shall be in full force and effect upon passage and printing as provided by law.

END OF ARTICLE TWELVE.