

## ARTICLE III. ADMINISTRATION

### SECTION

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#### Sec. 150.301 Office of the Zoning Administrator.

(A) The City Manager of the City of Highland Park or his designee shall serve ex officio as the head of the Office of the Zoning Administrator and shall from time to time hereinafter be referred to as the "Zoning Administrator".

(B) The Zoning Administrator and/or his duly appointed and/or authorized representatives shall have the responsibilities of administering and enforcing this Chapter, along with the following specific duties:

(1) To receive and process any application for an occupancy certificate for any structure or addition thereto for which a building permit is required;

(2) To receive and process any application for an occupancy certificate upon the completion of a structure or when there is a change of use as herein provided;

(3) To inspect any structure or the use of land to determine whether there is compliance with this Chapter and, in the case of any violation, to give written notice to the person or persons responsible, specifying the nature of the violation and order a corrective action;

(4) To maintain this Chapter, including the Official Zoning Map, in current status;

(5) To maintain permanent and current records required by this Chapter, including but not limited to zoning certificates, occupancy certificates, inspections, reports, and all official action on appeals, variations, special uses, and amendments;

(6) To prepare and have available in book, pamphlet, or map form:

(a) The complete text of the Zoning Ordinance; and

(b) A zoning map or maps, showing the zoning districts, divisions, and classifications;

(7) To notify other administrative officials of the City regarding pending matters and from time to time to coordinate and arrange, under the auspices of the City Manager, meetings between developers, builders, etc., and administrative officials of the

City to facilitate the solving of engineering, layout, and design problems and/or issues prior to hearings before the Zoning Board of Appeals and/or the Plan and Design Commission; (Ord. 59-15, passed 6/8/15)

(8) To maintain for distribution to the public a supply of the rules and by-laws of the Zoning Board of Appeals and the Plan and Design Commission; (Ord. 59-15, passed 6/8/15)

(9) To accept any application for a public hearing before the Plan and Design Commission and/or the Zoning Board of Appeals and to forward such application to the Office of the City Clerk for processing and publication of proper legal notice as provided in this Chapter, and the Rules of the Zoning Board of Appeals or Plan Commission, as the case may be, for hearing; (Ord. 59-15, passed 6/8/15)

(10) To maintain a file and conduct an annual review of the compliance with the special conditions and requirements of each permit and variation;

(11) To initiate, direct, and review from time to time, a study of the provisions of this Chapter, and make reports of his recommendations to the Plan and Design Commission not less frequently than once a year; and (Ord. 59-15, passed 6/8/15)

(12) To take appropriate action to abate violations of this Chapter.

#### Sec. 150.302 Assistance.

It shall also be the duty of the Police Department and all officers and employees of the City to assist the Zoning Administrator in enforcing the regulations contained in this Chapter.

#### Sec. 150.303 Restrictions.

No official or employee responsible for the enforcing of this Chapter shall engage directly or indirectly in any industry or profession, or in any type of gainful employment or business that conflicts with his duties.

#### Sec. 150.304 Proceedings to Prevent Violation.

(A) If any building or structure, including fixtures, is constructed, reconstructed, altered, repaired, converted, or maintained; or if any such building or structure, including fixtures or land, is used in violation of this Chapter or any other ordinance of the City, any owner or tenant of real property located within twelve hundred (1200) feet in any direction of the land or building or structure in question who shows that his property or person will be substantially affected by the alleged violation or the Zoning Administrator of the City may institute any appropriate action or proceeding:

(1) To prevent the unlawful construction, excavation, filling, reconstruction, alteration, repair, conversion, maintenance, or use;

(2) To prevent the occupancy of the building, structure, or land;

(3) To prevent any illegal act, conduct, business, or use in or about the building, structure, and/or land; or

(4) To restrain, correct, or abate the violation.

(B) At the time any such action is instituted by an owner or tenant, notice of such action shall be served upon the City at the time suit is begun by serving a copy of the complaint on the City Clerk in order that the City may join as a party plaintiff, if it so elects. However, no such action shall be initiated until such notice has been given. (See also 150.111)

Sec. 150.305 Zoning Board of Appeals.

Decisions made by the Zoning Administrator in the enforcement of this Chapter may be appealed to the Zoning Board of Appeals, as provided in Section 150.1301.

Sec. 150.306 Cost Recovery Fees.

(A) Fee Established. Every petition filed and processed pursuant to this Chapter that requires the City to incur third party costs or expenses, including, without limitation, legal fees incurred by the office of Corporation Counsel or any attorney or firm retained by the City, shall be subject to the cost recovery fee and escrow provisions set forth in this Section. The cost recovery fee shall in addition to any and all other filing fees and other charges established pursuant to this Chapter. For purposes of this Section, the word “petition” shall be deemed to include and refer to any and all petitions and applications filed or processed pursuant to this Chapter.

(B) Responsibility for Payment. The owner of the property that is the subject of the petition and, if different, the petitioner, shall be jointly and severally liable for the payment of the cost recovery fee, and for the establishment of the cost recovery escrow. By signing the petition, the owner or petitioner shall be deemed to have agreed to pay, and to have consented to, the cost recovery fee, plus any costs of collection, that have not been paid within 30 days following the mailing of a written demand for payment to the owner or petitioner at the address set forth on the petition, including any additional cost recovery fees assessed under Subsection 150.306(D)(3). Any lien filed pursuant to this Subsection 150.306(B) may be foreclosed in the manner provided for mortgages or mechanics liens under Illinois law.

(C) Recoverable Costs. For purposes of calculating the cost recovery fee, the costs incurred by the City with respect to the following items shall be deemed to be the “actual costs” incurred by the City in processing a petition:

- (1) Publication of notices;
- (2) Court reporter;
- (3) Professional and technical consultant services (including, without limitation, landscape and other design review); (**Ord. 71-07, J. 33, p. 459-460, passed 9/24/07**)
- (4) Corporation Counsel, or other City retained attorney or law firm, consultation, meeting attendance, document preparation, and review;
- (5) Copy reproduction; and
- (6) Document recordation.



(D) Cost Recovery Fee Payment and Cost Recovery Escrow.

(1) Initial Payment and Cost Recovery Escrow. Every petition shall be accompanied by the required petition fee plus an advance estimate of the cost recovery fee, to be deposited in the cost recovery escrow account established by the City. The advance estimate shall be in an amount established and adjusted from time to time by administrative order of the City Manager. No interest shall be payable on any funds retained in such escrow account.

(2) Charges Against Cost Recovery Escrow. From the date of filing of any petition, the City shall maintain an accurate record of the actual costs of processing the petition. The City Manager or his designee shall, from time to time, draw funds from the cost recovery escrow account established for the petition to pay such actual costs and shall transfer the funds to the appropriate City accounts. The City Manager or his designee shall maintain an accurate record of all the drawings from the cost recovery escrow account.

(3) Additional Cost Recovery Escrow Deposits. Should the City Manager or his designee at any time determine that the cost recovery escrow account established in connection with any petition is, or likely to become, insufficient to pay the actual costs of processing the petition, the City Manager or his designee shall provide notice of the insufficiency to the owner or petitioner and demand an additional deposit in an amount deemed by the City Manager or his designee to be sufficient to cover current and foreseeable additional costs. If the additional deposit is not provided to the City Manager or his designee within 30 days of the mailing of notice and demand to the owner or petitioner, the City Manager or his designee may direct that processing of the petition be suspended or terminated.

(4) Final Settlement. As soon as reasonably feasible following final action on a petition, the City Manager or his designee shall cause a final accounting to be made of the cost recovery escrow deposits made in connection with the petition and of the actual cost of processing the petition and shall make a final charge of the actual costs against the cost recovery escrow deposits. A copy of the accounting shall be provided to the owner and the petitioner.

(5) Insufficient Amounts; Reimbursement. If the amount in the cost recovery escrow account is insufficient to pay the total actual costs, a written demand for payment of the balance due shall be mailed to the owner and the petitioner. Any remaining funds in the cost recovery escrow account after payment of the total actual costs due pursuant to this Section shall be returned to the owner or petitioner, as applicable.

(E) Condition of All Petitions, Approvals, and Permits. No petition filed pursuant to this Chapter shall be considered complete unless and until all fees and deposits due pursuant to this Section have been paid. Every approval granted and every permit issued pursuant to this Chapter shall, whether or not expressly so conditioned, be deemed to be conditioned upon payment of cost recovery fees as required by this Section.

(F) Tolling of Time Periods. Where this Chapter provides that the passage of time without decision or action shall be deemed an approval or a recommendation for approval, time periods shall be tolled during any period of non-payment of the cost recovery fees and deposits due pursuant to this Section, but shall otherwise continue to run.

(G) Failure to Pay Cost Recovery Fees. The failure to pay in full when due any cost recovery fee or deposit required under this Section shall be grounds for refusing to process a petition and for denying or revoking any permit, or approval sought or issued with respect to the land or development to which the unpaid cost recovery fee or deposit relates.

(H) Specified Public Bodies Exempt The provisions of this Section 150.306 shall not apply to, and no cost recovery fee shall be required of, any public body or agency deriving the majority of its revenues from taxes levied within the City. (Section 150.306 added by Ord. 46-02, J. 28, p. 348-351, passed 7/22/02)

Sec. 150.307 Settlement of Litigation.

(A) Authority. Notwithstanding any other provisions of this Chapter or Chapter 151, the City Council may grant zoning and subdivision approvals in connection with the settlement of pending litigation brought by, or filed against, the City or any board or commission thereof, subject only to the provisions of this Section. For purposes of this Section, the term “zoning and subdivision approvals” includes the approval of Zoning Ordinance text amendments, Zoning Ordinance map amendments, special use permits, PUD approvals, variations, subdivision plats, waivers, and any other relief from the provisions of the Zoning Ordinance or the Subdivision Ordinance.

(B) Purpose. The authority conferred on the City Council pursuant to this Section is conferred in recognition of the fact that, when the City is involved in litigation concerning the exercise of its powers under this Chapter or Chapter 151, unique factors are sometimes brought into play. It is the ultimate responsibility of the elected governing body of the City to assess the impact of those factors on the land use decision involved and to make a decision based upon the overall public good.

(C) Powers. For the purpose of settling pending litigation on terms deemed by it to be most advantageous to the City, the City Council shall have the power to grant any zoning or subdivision approval authorized by this Chapter or by Chapter 151, or to modify or vary the provisions of this Chapter or Chapter 151, as they apply to the property that is the subject of such litigation.

(D) Procedure. Before exercising its powers under this Section, the City Council shall set, notice, and conduct a public hearing on the proposed exercise of these powers. No other procedure shall be required. Specifically, no review, consideration, or recommendation by or from any board, commission, or committee of the City shall be required prior to final action under this Section by the City Council. However, nothing herein shall preclude the City Council, in its sole discretion, from seeking or requiring review, consideration, or recommendation by or from a board, commission, or committee of the City on any specific matter.

All action taken under this Section shall be evidenced by an ordinance duly adopted. The concurrence of four members of the City Council shall be sufficient to approve any ordinance adopted pursuant to the authority and power granted by this Section.

(E) Notice and Hearing.

(1) Not more than thirty (30) days nor less than fifteen (15) days before the hearing date at which the City Council's exercise of its powers under this Section is to be considered, the City Clerk shall cause notice thereof to be published in one or more newspapers published in the City, or, if no newspaper is published within the City, then in one or more newspapers with a general circulation within the City. The notices required in this Section shall contain:

- (a) The legal description of the subject property;
  - (b) The address of the subject property;
  - (c) A brief statement of the nature of the zoning or subdivision approval to be considered;
  - (d) The name(s) and address(es) of the legal and/or beneficial owner(s) of the subject property;
  - (e) The name(s) and address(es) of the party(ies);
  - (f) The name of the legal representative of the party, if any;
- and
- (g) A statement of the date, time, and place of the hearing for which the notice is being given.

(2) Prior to the hearing, the Zoning Administrator shall also cause one or more signs to be posted on the subject property.

(a) The number and location of signs shall be determined by the Zoning Administrator.

(b) Each sign must be a minimum of 24" x 24" in size, have letters a minimum of 3/8" wide stroke by 2-1/2" high, and contain the following information:

(i) The fact that a public hearing will be held regarding the subject property, with direction to interested members of the general public to call the office of the Zoning Administrator for further information concerning date, time, and place and subject matter of the public hearing; and

(ii) The telephone number of the Zoning Administrator.

(c) Within ten (10) days after the commencement of the public hearing regarding the proposed amendment, the City shall cause the removal of the sign or signs from the subject property and return same to the office of the Zoning Administrator.

(3) Any interested party may appear in person, by agent, or by attorney, and be heard at the hearing.

Sec. 150.308 Pending Land Use Application Disclosure Notice.

(A) Notice Required. A disclosure notice in the form and content set forth in this Section shall be required in connection with all applications seeking any of the following land use relief:

(1) A variation from the regulations of this Chapter, in accordance with Article XII of this Chapter;

(2) A Special Use Permit, in accordance with Article XIV of this Chapter;  
or

(3) An amendment to either the text of this Chapter or the Official Zoning Map, in accordance with Article XV of this Chapter.

(B) Notice Location and Form. The applicant shall cause a disclosure notice of a pending application for land use relief, on a form to be provided by the City, to be attached to (1) any contract for the sale of any portion of the real property that is the subject of the pending application; (2) all promotional, sales, and advertising literature; and (3) all information packets distributed to prospective purchasers; provided, however, that no disclosure notice shall be required to be attached to, or made part of, advertisements in newspapers, magazines, and other similar forms of print media

(C) Notice Content. The disclosure notice shall, at a minimum, include the following information:

(1) The existing zoning classification of the real property;

(2) The name of, and contact information for, the applicant;

(3) A brief description of the nature of the land use relief requested; and

(4) The following statement: *“This property is the subject of an application for land use relief initially filed with the City of Highland Park on [DATE]. Unless and until the application is approved by the City of Highland Park, in accordance with its applicable codes and ordinances, the land use relief requested in the application shall not be allowed.”*

(D) Demonstration of Compliance. Prior to the approval by the City Council or the Zoning Board of Appeals, as the case may be, of any or all of the land use relief requested, the applicant shall provide evidence of compliance with the requirements set forth in this Section to the City Director of Community Development.

(E) Responsibility for Compliance. The obligation set forth in this Section shall be the sole responsibility of the applicant for the requested relief. Nothing herein shall be deemed or interpreted as imposing upon the City any responsibility to satisfy the disclosure requirements set forth in this Section. **(Section 150.308 added by Ord. 18-07, J. 33, p. 069-072, passed 2/12/07)**

(Section 150.307 added by Ord. 57-05, J. 31, p. 238-240, passed 9/26/05)