

**VILLAGE OF LINCOLNSHIRE
LAKE COUNTY, ILLINOIS**

RULES OF PROCEDURE FOR VIRTUAL PUBLIC HEARINGS

These Rules of Procedure are designed to ensure a fair and thorough public hearing process during the COVID-19 pandemic consistent with constitutional due process requirements as established in Sec. 11-13-25(b) of the Illinois Municipal Code, 65 ILCS 5/11-13-25(b) and the Open Meetings Act, as amended by Public Act 101-640. In accordance with the Village's duties, obligations, and authority under the law, the Chair of the Public Body finds that conducting in-person public hearings to consider zoning and development applications is impractical and imprudent due to the public health emergency. For the purpose of these Rules, the term "Public Body" includes the Village Board, Zoning Board, and Architectural Review Board.

These Rules of Procedure should be considered the general parameters governing public hearings while the Governor's Disaster Proclamations related to COVID-19 are in place. These Rules of Procedure apply to all public hearing participants who, for the purposes of these Rules of Procedure, are the petitioner, objectors, witnesses, and attorneys representing the petitioner, objector(s), and any witnesses. All such participants are expected to conduct themselves according to these rules and in a respectful and professional manner. Any conflicts or inconsistencies between these Rules of Procedure and any other rules or procedures previously adopted by the Village shall be resolved in favor of these Rules.

While the Public Body has the authority, if it deems necessary, to temporarily waive, suspend, or otherwise adjust these Rules as circumstances warrant, failure by any participant in the public hearing process to follow these Rules of Procedure, as may be adjusted by the Public Body may result in removal from the public hearing by the Chair.

(As used in these Rules of Procedure, the word "Chair" will apply to the duly elected or appointed Chair of the Public Body or a duly appointed hearing officer presiding over the public hearing process.)

1. Remote Attendance.

For the duration of the Gubernatorial Disaster Proclamation, the provisions of the Village's Remote Attendance Policy requiring or relating to in-person attendance by members of the Public Body are suspended. Specifically:

- A.** Any requirement that a member must be physically present at a meeting is suspended.
- B.** A member may be authorized to attend remotely for reasons other than personal illness or disability; employment purposes or the business of the public body; or a family or other emergency.
- C.** The Public Body will seek to postpone consideration of nonessential public business where possible.
- D.** When a public hearing is necessary, the Public Body will seek to:
 - 1)** provide video, audio, and/or telephonic access to the hearing to ensure members of the public may monitor and participate in meetings and hearings; and
 - 2)** work with Village staff to update the Village website and social media feeds to keep the public fully apprised of any modifications to its meeting schedules or the format of its meetings due to COVID-19.

2. Physical Attendance Limitations.

Public hearings of the Public Body will remain open and convenient to members of the public for the duration of the Gubernatorial Disaster Proclamation, while observing the limits on public gatherings and social distancing required by law. The Public Body allows members of the public to attend hearings by video or audio

conference. For the safety of the public, members of the Public Body and staff during meetings, access to Village Hall, including, without limitation, the hearing chambers, may be prohibited or limited, or meetings may be held at a location with a larger room, or broadcast in multiple rooms at a location or locations. The Public Body will seek to share information about the format of each hearing on the Village's website and social media feeds.

3. Submission and Publication of Hearing Materials and Written Comments.

To the extent possible, the Village will publish all materials reasonably anticipated to be presented at the hearing on the Village's website.

- A. Petitioner's Materials.** The Petitioner must submit all evidence it intends to present or rely on at the hearing to the Community & Economic Development Director or his/her designee not less than seven (7) days prior to the hearing. This includes any graphics, drawings, plans, or presentation materials that the Petitioner intends to reference at the hearing.
- B. Publication of Petitioner's Materials; Staff Reports.** Not less than five (5) days prior to the hearing, the Village will publish on its website relevant case materials, including the Petitioner's application and supporting materials, and any additional evidence, drawings, or presentations the Petitioner intends to rely on at the hearing, along with any staff reports or memos issued by the Village relating to the Petitioner's application. The case materials will be clearly labeled with consecutive page numbers for ease of reference.
- C. Evidence or Presentations from the Public.** Any group or member of the public who intends to give a PowerPoint or comparable presentation at the hearing must submit such presentations to the Community & Economic Development Director or VOLPublicComment@lincolnshireil.gov no later than two (2) days prior to the hearing (5:00 p.m. deadline).
- D. Publication of Evidence from the Public.** Any documentary evidence or presentations from the public received not less than two (2) days prior to the hearing will be published on the Village's website as soon as possible. These materials will also be included within the case file and will be clearly labeled with consecutive page numbers for ease of reference.
- E. Written Comments from the Public.** Written comments from the public regarding the Petitioner's application submitted to the Community & Economic Development Director or VOLPublicComment@lincolnshireil.gov at least two (2) days before the hearing will be published on the Village's website and distributed to the Public Body before the hearing. Written comments received less than two (2) days before the hearing will be emailed to the Public Body but may not be posted on the Village's website.

4. Speaker Registration.

Persons who intend to provide evidence or testimony at the hearing are encouraged to register prior to the hearing.

- A.** The Petitioner must submit a list of all persons who will present evidence or testify at the hearing to the Community and Economic Development Director no later than two (2) days prior to the hearing.
- B.** Members of the public who intend to present testimony or evidence at the hearing are encouraged to register with the Village at least forty-eight (48) hours in advance of the hearing. Members of the public may pre-register to speak during the hearing by emailing VOLPublicComment@lincolnshireil.gov. Members of the public who pre-register will be called to speak during the hearing before members of the public that fail to pre-register.

5. Public Hearing Procedure.

A. Introduction by the Chair.

- 1)** The Chair will begin each public hearing by announcing the name of the petitioner and the relief requested. The Chair will explain these procedures for the conduct of the public hearing, explaining that they are temporary procedures designed to accommodate remote participation by members of the Public Body, staff, and members of the public in accordance with Public Act 101-640, modifying the requirements of the Illinois Open Meetings Act, 5 ILCS 120/1 et seq., enabling the Village, and other units of local government, to conduct public business remotely.
- 2)** An oath will be administered to all persons intending to provide comment, testimony, questions, or cross examination during the course of the public hearing. Nothing said by attorneys representing any party will be considered evidence or testimony, unless the attorney's client is not present at the public hearing. The Chair will remind those people previously sworn under oath from a continued public hearing that they remain under oath. The Chair will also explain the following:
 - a)** The Chair will explain to the public how they can participate in the hearing remotely. The instructions on how to participate remotely will also be clearly posted on the Village's website.
 - b)** The Chair will reference that all of the documents, drawings, and other evidence presented at the hearing have been or will be posted on the Village's website so that they may be accessed by the public.
 - c)** The Chair will provide an overview of the structure of the hearing.
 - d)** At a minimum, the Chair should emphasize that remote participation requires a higher level of organization and that the following rules—in particular—will be enforced:
 - No speaker may address the Public Body without first being recognized by the Chair;
 - Speakers, including Village officials and staff, must identify themselves each time they address the Public Body or any other participant in the public hearing; and
 - Witnesses who are addressing plans or other documents should do so by plan or document title and page number.
 - e)** The Chair will designate a member of staff to administer and monitor any internet or telephonic-based platforms used for the hearing. This staff member will control the muting and un-muting of participants and the screen sharing options. This staff member will also guard against and cut off any disruptive behavior like “zoom bombing” or other harassing behavior. In the event that the public hearing has to be postponed because of disruptive behavior, the Chair will announce a temporary recess, as necessary, until the disruptive party is removed from the public hearing.

B. Village Staff's Summary of Petition.

Village staff will summarize the basic facts of, and relief requested in, the petition. In the event that the hearing is continued from a previous date, staff will be asked to provide the original summary as well as provide any new, additional, or supplemental information.

C. Petitioner's Presentation.

- 1)** The petitioner will present the petition with testimony of witnesses and other evidence. The Chair should clearly identify and accept into the public hearing record the submittals provided with the

application by title, page numbers, and latest revision date, as well as any additional or supplemental information the applicant may have.

- 2) The Public Body should allow the petitioner to make this presentation without interruption, except for those questions allowed by the Chair that may be immediately necessary to aid the Public Body or the public in understanding a particular aspect of the presentation.
- 3) Petitioner's graphics and other information should be identified by document title and page number, and clearly broadcast on all visual media to allow people participating remotely to clearly see and understand the materials. The Petitioner should also be as descriptive as possible for people participating telephonically or who may not otherwise have access to the materials posted on the Village's website.
- 4) The Chair should ensure that the Petitioner has had ample opportunity to fairly present its application and, where there is a need for additional time or clarification, the Chair should consider a continuation of the public hearing.

D. Public Comment, Testimony, General Questions (Other Than Cross-Examination).

- 1) **General.** After the Petitioner's Presentation, the Chair will open up the hearing for public comment, testimony, and general questions other than cross-examination. Prior to start of the period for public comment, testimony, and general questions, the Chair will advise the public:
 - a) of the amount of time permitted for public testimony, comment, and general questions;
 - b) of how speakers will be recognized either through the web conference platform or over the phone;
 - c) remind all speakers to state their names before addressing the Public Body;
 - d) to avoid repetitive comments, testimony, and general questions;
 - e) to appoint only one person to speak on behalf of a group, when possible;
 - f) that all information presented is under oath; and
 - g) that people who pre-registered to provide public comment, testimony, and general questions will be called first, and then anyone else who has not registered but wishes to provide public comment, testimony, and general questions.

Each person will be permitted to speak one time only, unless the Chair determines that allowing a speaker to address the Public Body again will contribute new testimony or other evidence. Unless more time is deemed necessary by the Chair, all comments from the public will be limited to no more than five minutes per person.

- 2) **Testimony, Evidence, and Questions.** Members of the public and their attorneys should address their comments, testimony, and general questions to the Public Body. Following the conclusion of all public participation, the Chair will direct the questions from the public to the petitioner or staff in an orderly and consolidated manner for response.

E. Cross-Examination.

In addition to asking general questions, the public and their attorneys will have right to cross-examine petitioners and petitioners' witnesses in accordance with the following:

- 1) Personal Notice Recipients' Automatic Right.** People who received a personal notice addressed to them as required under the Zoning Ordinance about the public hearing have an automatic right to cross-examine petitioners and petitioners' witnesses. People wishing to exercise this right must be prepared to demonstrate to the satisfaction of the Chair that they are the person to whom the notice was addressed or that they reside at the address on the notice. This right is based upon the fact that these people have a unique interest in ensuring the preservation of their property values, as well as the use and quiet enjoyment of their property. People who qualify under this right should be prepared to elicit information that addresses these valuable property interests.
- 2) Petitioners' Automatic Right.** Petitioners have a right to cross-examine any witness offered in opposition to their petition.
- 3) General Public Qualified Right.** Any other party who does not otherwise have an automatic right to cross-examination under these rules must file a formal request to do so at least 5 days in advance of the scheduled public hearing date or continuation thereof. The request must be submitted to the Community and Economic Development Director. Requesters will be informed as to whether their right to cross-examine witnesses has been granted or denied within 2 days of the public hearing by the Chair, or his or her designee, and no such request will be unreasonably denied.
- 4) Parties wishing to cross-examine witnesses must tailor their cross-examination in accordance with the following:**
 - a)** The matters that are subject to cross-examination are factual and not merely matters of taste or personal opinion;
 - b)** The cross-examination will help simplify otherwise complex issues before the Public Body; and
 - c)** The cross-examination relates to the factors to be considered by the Public Body in making its recommendation.
 - i.** In all instances, the Chair may specify which issues are considered relevant to the factors the Public Body must use to make its recommendation and limit cross-examination accordingly. People wishing to cross-examine witnesses must be aware of the factors that guide the Public Body in its considerations of a given petition and must tailor their cross-examination to these factors. Failure to do so may result in disqualification from cross-examination.
 - ii.** The Chair will determine whether a party conducting cross-examination is eliciting relevant information and may direct a cross-examiner to adjust his or her questioning accordingly. In addition, the Chair may restrict the scope of cross-examination to the testimony offered. Cross-examination designed to elicit extraneous, irrelevant, or repetitive testimony will be ruled out of order by the Chair and may result in disqualification of the person from further cross-examination of the witness.
 - iii.** The Public Body acknowledges the rights of parties to cross-examine witnesses, but parties wishing to do so must accept that the Public Body is not a court of law and the normal rules of evidence that would otherwise exist in those settings are not applicable in the proceedings. In order for the Public Body to most effectively carry out its responsibilities, parties wishing to cross-examine witnesses must respect this fact and conduct themselves accordingly.
 - iv.** Finally, parties wishing to cross-examine witnesses offered by a petitioner are expected to respect the right of the petitioner to a prompt and efficient process. The use of cross-

examination that deviates from these rules will be viewed as an abuse of process and infringement on the right of a petitioner to a prompt and efficient process and result in immediate disqualification from further cross-examination or testimony.

F. Subpoena of Witnesses.

There is no automatic right to request the issuance of a subpoena for any witness. However, upon:

- 1) a proper showing that the testimony to be elicited is relevant to the factors under consideration by the Public Body;
- 2) an allegation of some special interest beyond that of the general public; and
- 3) that the evidence to be elicited from the subpoenaed witness cannot be obtained through some other document or testimony,

the Chair may, in accordance with state law, compel the attendance of witnesses. Any person who satisfies the requirements for issuance of a subpoena will be completely responsible for presenting the witness before the Public Body, including, without limitation all costs, attorneys fees, and enforcement of the subpoena. In no event will subpoenas be issued to obtain documents or other non-testimonial evidence.

Failure of a subpoenaed witness to appear will not result in a delay of the proceedings before the Public Body.

G. Time for Non-Petitioner Presentation(s).

As a general rule, all other parties desiring to make a presentation will be collectively allowed an equal amount of time as was provided the petitioner for its full presentation. Multiple parties desiring to make presentations are expected to coordinate their efforts to maintain efficiency and the promptness of the proceedings and to stay within the general time parameters set forth herein. In addition, non-petitioner presenters should follow the general procedures to identify themselves, any affiliation they have with an organization interested in the application, and present all plans and other documents to the Chair by title, number of pages, and latest revision date for entry into the public hearing record. During the course of their presentation, the non-petitioner presenter should identify plans and documents by title and page numbers, and otherwise follow the procedures for the Petitioner set forth above.

H. Response by the Petitioner.

The Chair will allow the petitioner a reasonable time to respond to the public testimony and comments presented, but no more than half the time as was used by all other non-petitioners.

I. Questions by the Public Body.

The Public Body members may, after being recognized by the Chair, ask questions of any individual that may be necessary to clarify material presented or the relief requested. Members doing so should be recognized by the Chair, clearly state their name and clearly state who they are directing their questions to, as well as identify any plans or other documents by title and page number.

J. Public Body Discussion and Deliberation.

During the discussion, members of the Public Body may direct additional questions to the petitioner, witnesses for the petitioner, or members of the public who testified. Members doing so should be recognized by the Chair, clearly state their name and clearly state who they are directing their questions to, as well as identify any plans or other documents by title and page number. The petitioner, witnesses for the

petitioner, or members of the public or their attorneys may not address the Public Body during this portion of the meeting without the consent of the Chair.

K. Action.

Based on the discussions, the Chair may: (a) request the petitioner, a member of the public, Village staff, and/or the Village Attorney to provide new or additional information and continue the hearing to a date certain; or (b) take action (vote) on the petition and make its recommendation to the Village Board. A vote will close the public hearing.