
Chapter 4

Development Review Procedures

ARTICLE 4.1

GENERAL PROVISIONS

- 4.1.1. Purpose.** It is recognized that development of vacant land, redevelopment of improved land, subdivision of land, occupancy of structures, and Special Uses create potential for traffic congestion, overcrowding, adverse environmental effects, overburdened utilities, or poorly designed sites. It is also recognized that more efficient use of land and public services through unified development can protect the biodiversity in the natural ecosystem in the Village's planning area. This Chapter establishes a review process and enumerates standards governing decision making hereunder and it identifies the required information and documents for applications required by this Title. Site plan review shall be required prior to issuance of a required zoning certificate to ensure that new construction and use of land and buildings are otherwise in conformance with the intent of the Richmond Comprehensive Plan and with the provisions of this Title; and, that the arrangement of buildings, off-street parking and loading facilities, lighting, landscaping, ingress and egress, drainage, signs, streets, alleys, water distribution systems, sanitary waste collection systems, utilities and other improvements is provided in a manner that will promote safety and convenience for the public and will preserve the value of surrounding property. Article 4.3 shall apply to any subdivision of land in or within one and one-half (1½) miles of the corporate limits of the Village, subject to the terms of this Chapter.
- 4.1.2. Fees.** The Village Board shall establish a schedule of fees, charges, and expenses for zoning certificates, site plan review, occupancy certificates, amendments, Special Uses, appeals, planned unit developments, variations, subdivisions, and other matters pertaining to this Title. The schedule of fees shall be posted in the office of the Village Clerk and may be altered or amended from time to time by the Village Board. In the exercise of their sole discretion, the Village Board shall reserve the right to waive or reduce the fees required for any application required by this Title.
- 4.1.3. Reimbursement for Staff Review Time.** Every applicant for rezoning, Special Use permit, Planned Development, concept plan, preliminary subdivision plat or development plan, final engineering, final subdivision plat or development plan, or Major Site Plan Review shall reimburse the Village for expenses incurred by the Village in connection with all notice and publication costs, legal, engineering, land planning and other professional services by its staff and consultants required during the review of applications required by this Title and to assure compliance with the standards contained in this Title.
- A. The applicant shall deposit into a specified account with the Village at the time of each application an amount not less than \$500 and not more than \$5,000. The amount shall be determined by the Development Administrator and shall be based upon the expected complexity of the proposed application and the anticipated amount of time required by the Village staff and its consultants to review the application and supporting documentation. *The final fee billed to the applicant may be more or less than the Development Administrator's estimate.*
- B. Such expenses shall include, but are not limited to, the following:
1. Meetings with the applicant will be charged at prevailing hourly charges of all staff members and consultants deemed necessary by the Village; and,
 2. The prevailing hourly charges of all Village staff members and consultants deemed necessary by the Village for time spent on reviewing applications.

- C. All proceedings in connection with the rezoning, Special Use permit or Planned Development shall be stayed until such sum so designated is deposited with the Village as required.
- D. Upon submission of bills by the Village Attorney, Village Engineer, Village Planner, or other consultant hired to review the application, the Village shall pay these fees out of the specified account. At such time the balance of the account reaches one-fourth (1/4) of the original amount deposited, the Village Board may demand from the applicant a sum of money that, in addition to the balance of the account shall equal the amount originally required by the Village, or such lesser fraction thereof that the Village Board may in such case determine.
 - 1. All proceedings with regard to such rezoning, Special Use permit, or Planned Development shall be stayed until said subsequent demands for payment of fees shall be deposited in said account.
 - 2. Any demand or subsequent demand of the Village not deposited by the applicant within ten (10) days of the date of the demand shall, at the discretion of the Village Board and upon written notice to the applicant, terminate and render null and void the application for the proposed rezoning, Special Use permit, or Planned Development.
- E. The Village shall present a final statement by the Village Attorney, Village Engineer, Village Planner or other consultant hired to review the application within sixty (60) days of the approval of the application. If, upon payment of these fees, any balance is remaining in the specified account, said balance shall be returned to the applicant.

4.1.4. Zoning Certificates.

- A. ZONING CERTIFICATE REQUIRED. Unless the Development Administrator has certified that a proposed use of land or buildings, or construction, alteration, remodeling or reconstruction complies with the requirements of this Title, no building permit pertaining to the construction, remodeling, moving or reconstruction of any structure shall be issued by the Village; no construction, building, moving, remodeling or reconstruction of any structure shall be commenced; no improvement of land preliminary to any use of such land shall be commenced; and no permit pertaining to the use of land or structures shall be issued by any official, officer, employee, department, board or bureau of the Village.
 - 1. APPLICATION FOR ZONING CERTIFICATE. Any application for a building permit that contains the information required by this Article shall be deemed to be an application for a zoning certificate. Every application for a zoning certificate shall be accompanied by the following:
 - a. A Plat of Survey showing the property boundaries and dimensions, and the location and nature of any easements located thereon.
 - b. The certificate of the registered architect or registered engineer licensed by the State of Illinois, or of the land planner or an owner-designer, that the proposed construction complies with all of the provisions of this Title.
 - c. An approved Major Site Plan or Minor Site Plan.
 - d. All applications for a zoning certificate for the construction, moving, remodeling or reconstruction of any structure to be located in an industrial district shall be accompanied by sufficient information to enable the Development Administrator to determine that there will be compliance with all of the applicable performance standards of Article 5.4 of this Title at all times. At the request of the Development Administrator, the applicant shall provide, in addition to the foregoing, the following:

1. A description of the activity to be conducted in sufficient detail to indicate the extent to which the proposed operation will produce waste products, conditions, or external effects which are regulated or otherwise limited by Article 5.4 of this Title.
2. A description of the type and location of any abatement devices or recording instruments used to control or measure conformity with any of the standards set forth in Article 5.4 of this Title.
3. Such other data and certificates as may reasonably be required by the Development Administrator to reach a determination with respect to whether the proposed use or structure will comply with the requirements of Article 5.4 of this Title.

All information and evidence submitted in an application for a Zoning Certificate to indicate conformity with the performance standards set forth in Article 5.4 of this Title shall constitute a certification and an agreement on the part of the applicant that the proposed structure or use can and will conform to such standards at all times.

2. **ISSUANCE OF THE ZONING CERTIFICATE.** The Development Administrator shall, within seven (7) days after receipt of an application for accessory structures; within fourteen (14) days after receipt of an application for all other structures and uses, except in the industrial districts, shall either approve or deny an application for a zoning certificate. The Development Administrator shall advise the applicant in writing of the reasons for denial.
 3. **PERIOD OF VALIDITY.** A zoning certificate shall become null and void six (6) months after the date on which it is issued unless construction, moving, remodeling or reconstruction of a structure is commenced or a use is commenced within such six (6) month period.
 4. **ZONING CERTIFICATE ISSUED IN CONFLICT WITH THIS TITLE.** Any zoning certificate issued in conflict with the provisions of this Title shall be null and void.
- B. OCCUPANCY CERTIFICATE REQUIRED.** Unless an occupancy certificate shall first have been obtained from the Development Administrator certifying that the proposed use or occupancy complies with all the provisions of this Title, no structures or additions thereto, constructed, moved, remodeled, or reconstructed after the effective date of this Title shall be occupied or used for any purpose, and no land vacant on the effective date of this Title shall be used for any other use.
1. **APPLICATION FOR OCCUPANCY CERTIFICATE**
 - a. **ALL DISTRICTS, EXCEPT INDUSTRIAL DISTRICTS.** Every application for an occupancy certificate for a new or changed use of land or structure(s) shall be filed with the Development Administrator and be in such form and contain such information as the Development Administrator shall provide by general rule.
 - b. **APPLICATION FOR OCCUPANCY CERTIFICATES FOR INDUSTRIAL USES.** Every application for an occupancy certificate for any use to be located in an industrial district shall be accompanied by sufficient information to enable the Development Administrator to determine that all the applicable performance standards of Article 5.4 of this Title can and will be complied with at all times. At the request of the Development Administrator, the applicant shall provide such information as is specified in Section 4.1.4(A)1 of this Title.

2. **ISSUANCE OF OCCUPANCY CERTIFICATE.** No occupancy certificate for a structure, or addition thereto, constructed, moved, remodeled or reconstructed after the effective date of this Title shall be issued until such work has been completed, including, but not limited to, off-street parking and loading spaces, and the premises have been inspected by the Development Administrator and determined to be in full and complete compliance with the plans and specifications upon which the issuance of the zoning certificate was based. No occupancy certificate for a new use of any structure or land shall be issued until the premises have been inspected by the Development Administrator and determined to be in full and complete compliance with all the applicable regulations for the zoning district in which it is located.
3. **TEMPORARY OCCUPANCY PERMITS.** Pending the issuance of a permanent occupancy certificate, a temporary occupancy certificate may be authorized by the Development Administrator and shall be valid for a period not to exceed six (6) months from its date pending the completion of any unfinished site work or during partial occupancy of the premises. Temporary occupancy permits may only be issued when extraordinary circumstances exist, i.e. unavailability of materials, inclement weather, etc., and when it would not jeopardize the life or property of the citizens of Richmond. No temporary occupancy permit shall be issued unless a letter of credit, bond or a cash bond to cover site work that has not been completed at the time of application for an occupancy permit is provided to the Village. The amount of the letter of credit, bond or a cash bond shall be determined by the Development Administrator and shall be deposited in an escrow account by the Village Administrator for the duration of the temporary occupancy permit or until the site work has been completed in accordance with the approved site plan and inspected by the Development Administrator.
4. **ACTION BY DEVELOPMENT ADMINISTRATOR.** An occupancy certificate shall be issued, or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued, within five (5) days after the receipt of an application thereof or after the Development Administrator is notified in writing that the structures or premises are ready for occupancy; provided, however, that the Development Administrator shall have a period of seven (7) days within which to issue or refuse a temporary occupancy certificate on all applications which are required to comply with the provisions of Section 4.1.4(B)3 of this Title.

ARTICLE 4.2

APPEARANCE REVIEW REGULATIONS

4.2.1. Purpose. The appearance review regulations and procedures are intended to protect, preserve, and enhance the character and architectural heritage and quality of the Village of Richmond, to protect, preserve, and enhance property values, and to promote the health, safety, and welfare of the Village and its residents. The Village Board hereby finds that the appearance review regulations furthers the following public purposes and is therefore in the best interests of the health, prosperity, and welfare of the Village and its residents.

- A. **SPECIAL CHARACTER.** To effect and accomplish the protection, enhancement, perpetuation, and use of improvements and areas of special character or special historic and aesthetic interest or value which represent or reflect elements of the Village’s cultural, social, economic, political, and architectural history or distinction.
- B. **LOCAL ATMOSPHERE.** To maintain the local, “small town” atmosphere of various residential and business areas within the Village.
- C. **COMPATIBILITY.** To insure compatibility of new development with the existing characteristics of the area.
- D. **TRANSITIONAL AREAS.** To protect sensitive areas of transition from one land use to another.
- E. **ATTRACTIVENESS.** To protect and enhance the Village’s attractiveness to visitors and the support and stimulus to local business provided thereby.
- F. **STRONG ECONOMY.** To strengthen property values and the economy of the Village.

4.2.2. Scope. All new construction, additions or exterior alterations, all rezoning and Special Use Permits involving new construction, all new developments under unified control, such as a Planned Development, and all new construction, additions or alterations in the Historic Overlay District, shall be subject to the Appearance Review Regulations.

4.2.3. Appearance Review Required. No zoning certificate shall be issued for any new residential, commercial, industrial or mixed-use construction, addition or exterior alteration, new developments under unified control, such as a Planned Development, and all construction, addition or exterior alteration in the Historic Overlay District, until final Appearance Review approval is granted. Three classes shall be established for appearance review and are defined as follows:

- A. **MAJOR APPEARANCE REVIEW.** Major Appearance Review shall be required for any new construction, addition or exterior alteration associated with any of the following:
 - 1. granting rezoning,
 - 2. granting any Special Use Permit, or
 - 3. granting final approval of a Planned Development; or
 - 4. approval of a zoning certificate for any commercial or industrial construction involving new buildings, or a change of occupancy which requires additional parking.
- B. **HISTORIC OVERLAY DISTRICT APPEARANCE REVIEW.** Historic Overlay District Appearance Review shall be required prior to issuing a zoning certificate for any construction, addition or exterior alteration in the Historic Overlay District.
- C. **MINOR APPEARANCE PLAN REVIEW.** Minor Appearance Review shall be required prior to approval of a zoning certificate for any new construction, addition or exterior alteration, in any agricultural, residential, commercial or industrial district, or for construction of accessory structures, parking or signs, in any District, except in the Historic Overlay District, that does not require Major Appearance Review or Historic Overlay District Appearance Review.

4.2.4. Application Requirements for Appearance Review. Applications for Appearance Review are required to be submitted contemporaneously with applications for Special Use Permits, rezoning, Planned Developments, and other approvals. However, in any case where the proposed construction or development requires rezoning, granting a Special Use Permit, variation or other approval, no appearance review approval shall be granted unless and until such rezoning, Special Use Permit, variation, or other approval has been granted. The issuance of any such other approval shall not be deemed to establish any right to appearance review approval. No building permit shall be issued for any industrial or commercial construction, addition or exterior alteration, new residential developments, new developments under unified control such as a Planned Development and all construction, addition or alteration in the Historic Overlay District, until appearance review approval is granted.

A. MAJOR APPEARANCE REVIEW PLANS. Every application for Major Appearance Review shall be accompanied by the following in the number of prescribed by the Development Administrator:

1. A complete application form furnished by the Development Administrator;
2. A plat of survey, drawn to scale, showing the actual dimensions of the subject property;
3. A site plan, drawn to scale showing the location, dimensions, bulk, ground area and height of all existing and proposed structures, accessory structures, free-standing signs, parking and loading facilities, driveways and parking aisles; adjacent public streets and sidewalks; building lines, and easements; trash enclosures, lighting, existing and proposed topography, storm water drainage facilities, public water and sewer facilities; and, such other information as may be required by the Development Administrator for the proper enforcement of this Title.
4. A landscape plan as required in Article 6.6.
5. A Tree Preservation and Removal Plan in accordance with Article 6.6, if required.
6. An exterior illumination plan as required in Article 6.10.
7. Architectural drawings showing plan and exterior elevations and identifying exterior building materials and colors, and any signs attached to all buildings on the site. Product samples may be required by the Development Administrator to aid the review and decision process.

B. HISTORIC OVERLAY DISTRICT APPEARANCE REVIEW PLANS. Every application for Historic Overlay District Appearance Review shall be accompanied by the following in the number of prescribed by the Development Administrator:

1. A complete application form furnished by the Development Administrator;
2. A plat of survey, drawn to scale, showing the actual dimensions of the subject property;
3. A site plan, drawn to scale showing the location, dimensions, bulk, ground area and height of all existing and proposed structures, accessory structures, free-standing signs, parking and loading facilities, driveways and parking aisles; adjacent public streets and sidewalks; building lines, and easements; trash enclosures, lighting, existing and proposed topography, storm water drainage facilities, public water and sewer facilities; and, such other information as may be required by the Development Administrator for the proper enforcement of this Title.
4. A landscape plan as required in Article 6.6.
5. A Tree Preservation and Removal Plan in accordance with Article 6.6, if required.

6. An exterior illumination plan as required in Article 6.10.
 7. Architectural drawings showing plan and exterior elevations and identifying exterior building materials and colors, and any signs attached to all buildings on the site. Product samples may be required by the Development Administrator to aid the review and decision process.
- C. MINOR APPEARANCE REVIEW PLANS. Every application for Minor Appearance Review shall be accompanied by the following in the number prescribed by the Development Administrator.
1. A complete application form furnished by the Development Administrator.
 2. A plat of survey, drawn to scale, showing the actual dimensions of the property and the location of any existing structures.
 3. A site plan, drawn to scale, showing the location, dimensions, ground area, height of the proposed structure, easements, and building lines.
- D. ADDITIONAL APPEARANCE REVIEW APPLICATION REQUIREMENTS FOR INDUSTRIAL DISTRICTS. In addition to the foregoing, all applications for appearance review in industrial districts shall provide the following:
1. A description of the activity to be conducted in sufficient detail to indicate the extent to which the proposed operation will produce waste products, conditions, or external effects which are regulated or otherwise limited by Article 5.4 of this Chapter.
 2. A description of the type and location of any abatement devices or recording instruments used to control or measure conformity with any of the standards set forth in Article 5.4 of this Chapter.
- E. WAIVING APPLICATION REQUIREMENTS. If, in the determination by the Development Administrator that certain required application information does not apply or does not come to bear upon the proposed construction to which the application applies, the Development Administrator may waive the certain application requirements, provided that a record of such determination is attached to and made part of the application.

4.2.5. Appearance Review Procedures.

- A. MAJOR APPEARANCE REVIEW PLANS
1. VILLAGE STAFF REVIEW. Upon receipt of a complete application, the Development Administrator shall distribute copies of the application and supporting documents to such Village staff and consultants as appropriate for review and comment concerning compliance with Village requirements. Within fourteen (14) days of receipt of a complete application, the Development Administrator shall advise the applicant, in writing, that the Appearance Review plan conforms or fails to conform to the requirements of this Title or other provisions of the Municipal Code. If the Appearance Review plan fails to conform, the Development Administrator shall specify the reasons the Appearance Review plan fails to conform. In such event, the Development Administrator is not obligated to transmit the Appearance Review Plan to the Plan Commission until the Applicant responds to the Development Administrator's notice of failure to conform. The Development Administrator may enlist the services of other Village departments and consultants to determine compliance with the provisions of this Title and other provisions of the Municipal Code.
 2. ACTION BY THE PLAN COMMISSION. Within thirty (30) days of receipt of a complete application, the Plan Commission shall review said Appearance Review plan and the Development Administrator's Advisory Report. After reviewing the Development Administrator's report and the Appearance Review

plan, the Plan Commission shall recommend approval, denial or modification of the Appearance Review plan, with or without conditions, or may defer the item for further study.

3. ACTION BY THE VILLAGE BOARD. Within thirty (30) days of the Plan Commission's final recommendation concerning the Major Appearance Review Plan, the Village Board shall approve, deny, modify, or refer the item to the Plan Commission for further consideration. When the Plan Commission recommends denial of a proposed Major Appearance Review plan, such Appearance Review plan shall not be approved except upon the favorable vote of two-thirds (2/3) of all members of the Village Board.
 4. EXPIRATION. Such appearance review approval shall be effective for no more than one (1) year from the date of approval unless, upon written request by the Applicant, the Village Board grants an extension of time for any additional one (1) year. But said right to so extent said time shall not include the right to grant additional relief by expanding the scope of the variation
- B. HISTORIC OVERLAY DISTRICT APPEARANCE REVIEW PLANS.
1. VILLAGE STAFF REVIEW. Within fourteen (14) days after a properly completed application has been filed, the Development Administrator shall review the application to determine whether the proposed improvements will substantially alter the existing design and appearance of the subject structure. If the Development Administrator determines that there shall be no such substantial alteration, then the Development Administrator shall approve the application. If the Development Administrator determines that there will, or may be, such substantial alteration, then the Development Administrator shall forward the application for review to the Village Board Community Development Committee.
 2. ACTION BY THE COMMUNITY DEVELOPMENT COMMITTEE. A public meeting shall be set, notices, and conducted by the Community Development Committee. Within fourteen (14) days after the conclusion of the public meeting, the Community Development Committee shall transmit to the Village Board its recommendation to grant, grant with conditions, or to deny the exterior appearance approval request. In reaching its recommendation, the Community Development Committee shall be guided by the purposes for which the exterior appearance review process has been created and by the particular standards and considerations set forth in this Article. The failure of the Community Development Committee to act within such fourteen (14) days, or such further time to which the applicant may agree, shall be deemed to be a recommendation for approval of the application.
 3. ACTION BY THE VILLAGE BOARD. Within fourteen (14) days after receipt of the recommendation by the Community Development Committee, or its failure to act as above provided, the Village Board shall grant exterior appearance approval, or shall make modifications acceptable to the applicant and approve such modified application, or shall deny the application. In reaching its recommendation, the Village Board shall be guided by the purposes for which the exterior appearance review process has been created and by the particular standards and considerations set forth in this Article.
 4. EXPIRATION. Such appearance review approval shall be effective for no more than one (1) year from the date of approval unless, upon written request by the Applicant, the Village Board grants an extension of time for any additional one (1) year. But said right to so extent said time shall not include the right to grant additional relief by expanding the scope of the variation
- C. MINOR APPEARANCE REVIEW PLANS.

1. VILLAGE STAFF REVIEW. Upon receipt of a complete application, the Development Administrator shall review the site plan for conformance with the provisions of this Title. Within seven (7) days of receipt of a complete application for accessory structures and signs; or within fourteen (14) days of receipt of a complete application for all other structures except those requiring Major Appearance Review or Historic Overlay District Review; or, within twenty-one (21) days of receipt of application for structures and uses in industrial districts, the Development Administrator shall approve or deny the application. If the Development Administrator denies an application for a Minor Appearance Review, he shall advise the applicant in writing of the reasons for denial.
2. APPEAL
 - a. If the Development Administrator does not approve a Minor Appearance Review, the applicant may appeal the Development Administrator's decision to the Plan Commission. A notice of appeal must be filed with the Development Administrator no later than fifteen (15) days after receipt by the applicant of the decision of the Development Administrator. Failure by an applicant to file an appeal in accordance with the foregoing provisions shall be deemed to constitute a withdrawal of the application for a Minor Appearance Review approval.
 - b. The Plan Commission shall act as promptly as practical on any appeal taken in connection with the Minor Appearance Review. The Plan Commission shall approve or disapprove the Appearance Review plan by action taken by a majority of the Plan Commission present at any meeting at which a quorum is present. If the Plan Commission approves the Appearance Review plan, a building permit may then be issued, provided that all other requirements of all other applicable Village codes and ordinances are satisfied.

4.2.6. Criteria for Appearance Review. The appearance guidelines focus on promoting high quality development that will complement and enhance the overall character of the Village. The appearance guidelines do not attempt to dictate architectural styles or “make all the buildings look the same.” These appearance guidelines present basic principles that shall be used in designing and reviewing the overall appearance and character of residential development:

A. GENERAL DESIGN GUIDELINES.

1. In addition to these guidelines, all new commercial construction, addition or exterior alteration, all new residential developments, all new developments under unified control such as a Planned Development, and all construction, addition or alteration in the Historic Overlay District are subject to all applicable requirements of this Title and all applicable Village codes and ordinances.
2. The buildings in the development shall relate to one another to create a sense of place. Buildings shall be compatible but not matching, to avoid a sense of monotony. Rather, the goal is for a development that looks like it developed over a period of time.
3. Exterior Building Materials. Primary exterior wall finishes shall be limited to brick, stone, simulated stone, wood siding and/or fiber cement board. Vinyl or aluminum siding is prohibited.
4. Exterior Illumination. Exterior illumination shall conform to dark sky design principles and the requirements of this Title.
5. Landscaping. The landscape plan shall use conventional design principles, but utilize native plant material as well as plant material that is well adapted to local conditions. Natural areas such as wetlands may use naturalized landscaping

design principles as appropriate, but naturalized landscaping such as prairies will not be required in primary public spaces. It is the objective of this Title to reinforce the natural rural character of the site. The desired landscape character should emphasize native plant material and blend with the surrounding countryside and minimize disturbance to and loss of native trees and woodlands. Where ever possible, connections between new developments to provide linkages to the multi-use trails along the environmental corridors, and to enable trail system extensions that would permit connections to other major parks, open spaces and environmental areas are encouraged.

6. Rear Facades. The rear portions of all properties shall be clean, attractive and well maintained, particularly where these areas are visible to the public. All exterior mechanical equipment shall be screened from view.
7. Outdoor Storage and Service Facilities. Outdoor storage and service facilities shall be screened from view along sidewalks and roadways through the use of low masonry walls or evergreen plantings. All garbage dumpsters shall be screened from view through the use of materials compatible with the adjacent building or solid plantings with eighty-percent (80%) coverage year round.
8. Parking Areas. Parking lots shall be paved, well marked, sufficiently lit, and provided with proper drainage. Clearly marked pedestrian pathways are required within the interior of parking areas. Pedestrian pathways may be marked by striping and/or differentiation of materials. Pedestrian access to parking lots shall be provided through planned walkways located in gaps between buildings. Preserving quality trees and the ability to establish cross-access agreements for parking between tenants and the implementation of storm water drainage best management practices should be reflected in parking lot design.
9. Signs. All sign placement, sizes, and design shall conform to the requirements to Article 6.8, Sign Regulations, of this Title unless otherwise varied by the Village Board. Indirect illumination of signs is preferred.

B. RESIDENTIAL DESIGN GUIDELINES.

1. Building Placement and Orientation.
 - a. Single family homes shall have a strong orientation to the street. Primary entrances to the homes shall be located in the front of the house, facing the street.
 - b. Townhomes, villas, and other attached single-family units shall be rear loaded, with strong orientation to the street or central courtyard. At least half of all units in each building shall have front porches, although porches for all units are encouraged and garages shall be located in the rear to strengthen each unit's street or courtyard prominence.
2. Dwelling Size, Height, Massing and Form.
 - a. The height, mass and scale of homes shall be in character with surrounding development. Detached and attached single-family homes shall be measured from the established finish grade as identified on the approved grading plans to the highest ridge point of the roof. In cases where a "walk out" basement is proposed, the measurement shall be taken from the average height distance between the first floor grade and the lowest grade closest to the structure. Height restrictions shall not exceed thirty-five (35) in total height.
 - b. Front porches can add interest and scale to the front of a house. Front porches also encourage neighbor interaction, contribute to safety and help establish the close neighborhoods desired by the Village and its

residents. But the Village committee that reviews architectural standards reserves the right to waive this condition based on design.

- c. Front portions of the attached homes shall be articulated and stepped back to break up homes' mass.
- d. Mansard roofs shall be prohibited.

3. Building Material and Colors

- a. Wood shakes may be used as a siding material only on Arts & Crafts style homes.
- b. No more than fifty-percent (50%) fiber-cement board siding will be permitted on primary elevations.
- c. Exterior trim details can add interest, scale and dimension to a home. The use of wide casings around windows, shutters, balusters and columns compatible with the home's architectural style is encouraged.
- d. Exterior finishes shall utilize appropriate accents to highlight entries, window, dormers, porches and other architectural details using historic models. Acceptable accent materials include stone, simulated stone, wood, or fiber-cement board. Exterior insulation finish systems (EIFS) shall not be permitted.
- e. Roofing materials should complement the architectural style of a home. The color of roofing materials should complement the architectural style and color of the home. Any asphalt roof shingles shall be architectural grade, min. 40-year warranty. Other approved roof materials for sloped roofs include wood cedar shingles (not shakes unless in an Arts & Crafts or timber-frame style building), slate or concrete tiles. Spanish mission style clay tiles shall be prohibited.
- f. The predominant colors for new homes should consist primarily of earth tones. While the natural brick and stone colors should predominate, contrasting and complementary colors should also be used to accent building components, highlight architectural elements and to help distinguish homes and neighborhoods from one another.
- g. All patios, decks and terraces are to be constructed within the confines of the final building pad as designed and recorded by the developer for each lot.
- h. Shutters, if used, should be traditional in design and material and in keeping with the architectural style. If shutters are used they should be sized to the window so it appears it could be closed and fully protect the window. Hinges and shutter-dogs should be used even if the shutter is fastened to the wall. Hollow back plastic shutters are not allowed.
- i. Dormers are encouraged provided they are appropriate with the architectural style of the home. Dormers add visual interest to a home, provide more interior natural light, and disrupt large roof masses. Dormers should be designed in keeping with the historical architectural style and must be correctly located and proportionally designed on the roof.
- j. Skylights must not be visible from the street. Skylights should be flush and non-protruding, and similar in color to the roof.

4. Garages and Driveways.

- a. Homes shall have driveways constructed of asphalt, concrete or brick pavers.

- b. Garage doors shall be consistent with the architectural style of the house. Carriage style garage doors are preferred. Garage doors with windows shall complement the architectural style of the house.
5. Monotony. No two single-family detached dwellings of similar front elevation or façade shall be constructed or located within 400 feet of the other; nor shall there be constructed or located dwellings of similar front elevation when there is no substantial difference in all of the following: (a) roof lines, (b) windows, (c) no change in the color of materials used or no substantial change in the kind of materials used.
- a. The following differences in the roof lines of a dwelling as seen from the front elevation of the dwelling shall be deemed sufficient to render buildings containing such changes and built within the same street block to be dissimilar.
 - 1. Changing gable roofs to hip roofs.
 - 2. Changing hip roofs to gable roofs.
 - 3. Providing an intersecting gable roof on the main gable roof, provided that the height of the intersecting roof is at least 50% of the height of the main roof.
 - 4. Providing an intersecting hip roof on the main hip roof, provided that the height of the intersecting roof is at least 50% of the height of the main roof.
 - 5. Window dormers when the total area of the dormers that are visible from the street meet or exceed 50% of the entire roof area.
 - 6. Rotating gable roof 90-degrees.
 - 7. On a tri-level residence or other building type which has three independent major roof areas, the changing of two or of three roof lines shall be acceptable as a substantial change. Acknowledging certain design elements may prevent the change of all three roof lines. It is desired that the roof with the greatest impact on the street block be changed.
 - b. The following differences in the size, location and type of windows shall be deemed sufficient to render building containing such changes to be dissimilar:
 - 1. Changing from single windows to a multiple window arrangements.
 - 2. Changing from multiple window arrangements to single window.
 - 3. Changing the type of window (e.g. casement to double hung)
 - 4. Providing a bay or bow window in the area of a predominant window.
 - 5. Where, because of its size, location or design, one window is the predominate window of the front elevation or façade, if the size, location or type of that window is changed to render the dwelling dissimilar, then no other window need be changed.
 - 6. The following changes shall not be deemed sufficient to constitute a substantial change in windows: the addition or subtraction of mutin bars; a change from clad to wood windows; or, a change in window trim color

- c. The following differences in exterior building materials or color shall be deemed sufficient to render buildings containing such changes to be dissimilar:
 - 1. Color change shall be made by significant changes in adjacent colors. The color change must be one of color rather than merely of shade.
 - 2. Four inch exposure horizontal siding
 - 3. Eight inch exposure horizontal siding
 - 4. Masonry facing
 - 5. Natural wood facing

When materials are changed, the change must occur throughout the dwelling for a minimum of one story in height.

B. COMMERCIAL DESIGN GUIDELINES.

1. Building Placement and Orientation.

- a. Buildings shall have a strong visual and physical relationship to the street. Buildings shall be attractive at both a pedestrian and vehicular scale.
- b. Commercial buildings shall have a strong pedestrian orientation with display windows, attractive detailing, and pedestrian access to business entrances.
- c. Long blank facades along corridors shall be prohibited.
- d. Covered walkways, such as arcades, are encouraged along the fronts of multi-tenant commercial buildings to create a pedestrian-friendly orientation. The column locations of the arcade shall be designed with consideration to the façade behind them.
- e. Any outdoor seating areas, such as those provided by restaurants or cafes, shall be well landscaped and incorporated into the overall site design. Outdoor seating areas shall be set back and screened from parking areas and driving aisles.
- f. Awnings and canopies may be used to provide weather protection and to add visual interest at the street level. They shall be integrated into the façade and shall be in character with the architectural style of the building. Arched or rounded awnings shall be discouraged, unless they are compatible with and appropriate to the architectural style of the building. Plastic awnings are not permitted.
- g. Mansard roofs shall be prohibited. However, this shall not be interpreted to prohibit sloped roofs with a well in the middle meant to screen rooftop equipment.
- h. Rooftop mounted equipment shall be screened from views along all sides of a building that face the public, including views from windows in existing buildings. Rooftop screening shall be incorporated into the overall design of the building and be an integral part of the architecture.

2. Building Material and Colors.

- a. Primary exterior wall finishes shall be limited to brick, stone, simulated stone, stucco and/or wood siding. Vinyl or aluminum siding will not be permitted. Exterior insulation and finish systems (EIFS) shall be limited to secondary use with other materials. EIFS shall not be used in the first three (3) feet above grade or exceed five-percent (5%) of the total building wall square footage. Other quality materials not on this

list may be approved by the Village Board at its discretion, particularly when used in good design. Color palettes shall be neutral in nature, but colorful accents may be permitted.

- b. Any asphalt roof shingles shall be architectural grade, minimum 40-year warranty. Other approved roof materials for sloped roofs include standing seam metal, wood shingles, shakes, slate or concrete tiles. Spanish mission style clay tiles shall be prohibited.
3. Rear Yards & Rear Facades. Secondary rear entrances to stores and shops are encouraged in buildings where parking or pedestrian walkways are located behind the buildings.
4. Business Signage.
 - a. Exterior building signs shall be limited to business identification, address and description.
 - b. The size, material, color, and shape of building signs shall complement the architectural style and scale of the building.
 - c. Wall mounted signs and ground monument signs are encouraged, although signage shall not be mounted on the roof of a building.
 - d. Raised, individual letters mounted directly on the building are preferred.

Article 4.3

SPECIAL USES

4.3.1. Purpose. Because of their unique and potentially harmful characteristics, certain uses set forth in this Article shall be located in a district or districts only upon consideration in each case of the impact of such use upon neighboring land and of the public need for such a use at the particular location. Such uses, hereby designated as Special Uses, fall into two categories:

- A. Uses either municipally operated, or operated by regulated public utilities, or traditionally affected by a public interest; and
- B. Uses entirely private in character but of such nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

4.3.2. Authorized Special Uses. The Village Board may authorize, by ordinance (Special Use Permit), the establishment, operation or construction of any Special Use as designated in each of the zoning districts. All of the other applicable provisions of this Title, including the requirements and restrictions of the zoning district in which the proposed Special Use is to be located, shall be applicable to the establishment and maintenance of such Special Use unless the ordinance authorizing the establishment or construction of the particular Special Use expressly provides otherwise. Subject to the standards contained in this Article 4.3, the Village Board shall have authority to permit Special Uses as designated in each of the zoning districts, provided it shall find that the proposed Special Use will comply with the standards contained in this Article 4.3.

4.3.3. Standards. A Special Use Permit shall be granted only if evidence is presented to establish that:

- A. The proposed Special Use at the particular location requested is necessary or desirable to provide a service or a facility which is in the interest of the public and will contribute to the general welfare of the neighborhood or community;
- B. The proposed Special Use will not have a substantial adverse effect upon the adjacent property, the character of the neighborhood, traffic conditions, utility facilities and other matters affecting the public health, safety and general welfare; and
- C. The proposed Special Use will be designed, arranged and operated so as to permit the development and use of neighboring property in accordance with the applicable district regulations.
- D. Such other standards and criteria as are established by the ordinance for a particular Special Use as set forth in Section 4.3.4 and Section 4.3.8, if applicable, and as applied to Planned Developments as set forth in Article 4.4.

4.3.4. Conditions. The Plan Commission may recommend and the Village Board may impose such conditions or restrictions upon the location, construction, design and operation of a Special Use, including but not limited to, provisions for off-street parking spaces and the duration of such permit, as they shall respectively find necessary or appropriate to secure compliance with the standards set forth in Sections 4.3.3 and 4.3.4 and, if applicable, Section 4.3.8.

4.3.5. Procedures.

- A. **AUTHORIZATION.** The Village Board is authorized to issue a Special Use Permit for those listed in Article 5.3 and for Planned Developments, subject to the standards set forth in Sections 4.4.3 and 4.4.4 and such conditions as may be imposed pursuant to Section 4.3.8. Prior to the issuance of any Special Use Permit, a public hearing shall be held and published notice shall be given, in the manner prescribed in Section 4.8.3 of this Title.
- B. **APPLICATION FOR SPECIAL USE.** Any person having a proprietary interest in the premises may file an application for a Special Use with the Development Administrator. The application shall be in such number, in such form, and contain such information as the Development Administrator may prescribe from time to time. The Development

Administrator shall process such application and hearing shall be held in the manner prescribed for amendments by Article 4.7 of this Title.

- C. **REPORT OF HEARING.** Within thirty (30) days following the hearing, the Plan Commission shall transmit to the Village Board a written report giving its findings as to compliance of the proposed Special Use with the standards governing Special Uses and giving its recommendations for action to be taken by the Village Board.
- D. **ACTION BY VILLAGE BOARD.** After receiving the recommendations and report of the Plan Commission, the Village Board shall, within thirty (30) days, review the recommendations and report and may accept the findings and recommendations of the Plan Commission in whole or in part or may reject them in whole or in part, or the Village Board may refer the matter back to the Plan Commission for further consideration. However, in the event the Plan Commission recommends against the issuance of a Special Use Permit, then it may be issued only upon the favorable two-thirds (2/3) vote of all of the members of the Village Board.

4.3.6. Effect of Denial of a Special Use. After a public hearing, no application for a Special Use which has been denied wholly or in part by the Village Board shall be resubmitted for a period of one (1) year from the date of said order of denial, except on the grounds of substantial new evidence or proof of changed conditions found to be valid by the Plan Commission and Village Board.

4.3.7. Termination of Special Use Permit.

- A. If the proposed Special Use is not established within one (1) year from the date of the authorization by the Village Board, the authorization shall become null and void and all rights thereunder shall lapse. However, upon written application, the Village Board may authorize a single extension of the time limit for a period of not more than one (1) year.
- B. If the proposed Special Use, once established, is abandoned or discontinued for more than sixty (60) consecutive days, the authorization shall become null and void and all rights thereunder shall lapse.

4.3.8. Additional Standards and Criteria. In addition to the standards and criteria established in Section 4.3.3, herein, no Special Use Permit shall be granted for the use(s) listed below unless evidence is presented to establish the standards and criteria set forth herein.

A. **ADULT BUSINESSES** (*Ordinance No. 1998-25, 07.03.98*).

- 1. **DEFINITIONS.** For the purposes of this Section, the following supplemental words and phrases shall be defined as follows, unless it is clearly apparent from the context another meaning is intended.

Adult Arcade: Shall mean an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, for viewing by five (5) or fewer persons each, are used to show films, motion pictures, video cassettes, slides, computer generated graphics or other photographic reproductions which are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas”.

Adult Bookstore or Adult Video Store: Shall mean a business (establishment) that devotes more than five-percent (5%) of the total display, shelf, rack, table, stand or floor area of its stock-in-trade, books, magazines, periodicals or other printed matter, photographs, films, sculptures, motion pictures, video cassettes, slides, computer generated graphics, or other visual representations, instruments, devices or paraphernalia, which are designed for, use in connection with "adult conduct" (other than birth control devices) or "adult material" for sale viewing on premises by use of which are distinguished or characterized by their principal emphasis sexual conduct (whether auto-erotic, heterosexual, homosexual, or otherwise), bestiality or sadomasochistic activity. An establishment, having

adult-only items as a substantial or significant portion of its stock, that sells or displays adults-only items for sale to patrons therein.

Adult Business: Shall mean any establishment having as a substantial or significant portion of its stock-in-trade or business activity in a use such as, but not limited to the following: adult arcades, adult bookstores or adult video stores, adult cabarets, adult entertainment centers, adult hotels/motels, adult massage parlors, adult motion picture theaters (including adult mini-motion picture theaters), adult nightclubs, escort agencies, nude modeling studios, rap parlors, adult saunas, and sexual encounter centers where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

Adult Cabaret: Shall mean a nightclub, restaurant or similar business establishment which regularly features live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical area”.

Adult Card, Gift or Novelty Store: Shall mean an establishment having more than five-percent (5%) of its stock-in-trade, items, such as cards, games, articles of clothing, computer generated graphics, and novelties, which are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Adult Entertainment Business: See “Adult Business” or “Adults-Only Business”.

Adult Entertainment Center: Shall mean an enclosed building or part of an enclosed building, which contains one or more coin-operated mechanisms, which when activated, permit a customer to view a live person nude or in such attire, costume or clothing as to see pubic hair, buttocks, perineum, anal or pubic regions, or female breast, at or below the areola thereof. In addition, the viewing of a live person, in the above described manner, after paying of any admission or fee for the viewing of same activity.

Adult Hotel/Motel: Shall mean a hotel or motel or similar business establishment offering public accommodations for any form or consideration, which (a) provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical area”; and/or (b) rents, leases, or lets any room for less than a six (6) hour period, or rents, leases or lets any single room more than twice in a twenty-four (24) hour period.

Adult Massage Parlor: Shall mean an establishment or place primarily in the business of providing massage services, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated. This definition excludes licensed therapeutic establishments.

Adult Motion Picture Theater: Shall mean an enclosed building used regularly and routinely for presenting adults-only material distinguished or characterized by an emphasis on matter depicting, describing or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual or otherwise), bestiality or sadomasochistic activity, for observation by patron(s) therein. Adult mini-theaters are also included in the above definition.

Adult Nightclub: Shall mean an establishment or place either occasionally or primarily in the business of featuring topless and/or bottomless dancers, go-go

dancers, exotic dancers, male and/or female strippers, male or female impersonators, or similar entertainers, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

Adults-Only: Shall mean any items or activities emphasizing, depicting, describing or relating to nudity, explicit, sexual conduct (whether auto-erotic, heterosexual, homosexual or otherwise), bestiality or sadomasochistic activity, "Adults-Only Business" is synonymous with "Adult Business" as described herein.

Adult Sauna: Shall mean an establishment or place primarily in the business of providing a steam bath and/or massage service, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

Booth: Shall mean any enclosure that is specifically offered to patrons of an adult business for the private viewing of any adults-only item(s) or movie. Said definition does not include enclosures that are used as private offices by any operator, employee or agent for attending to the tasks of their employment and are not offered for use by the public.

Commercial Gain: Shall mean any business, location, or place, which conducts or allows to be conducted on its premises any activity for commercial gain.

Cubicle: See "Booth," as defined herein.

Educational/Institution: Shall mean a premises or site within the Village of Richmond upon which there is an institution of learning, whether public or private, which conduct regular classes and/or courses of study required for accreditation by or membership in the State Department of Education of Illinois. The term educational institution includes a premises or site upon which there is a day care center, nursery school, elemental junior high, or middle school, senior high school, professional institution of higher education, including a community college, junior college, four-year college or university, libraries, art galleries and museums open to the public, or any special institution of learning. The term "educational/institution", however, does not include a premises or site upon which there is a vocational institution operated for commercial gain.

Emphasis, or Emphasis on: Shall mean that the type of matter specified is the apparent matter upon which the particular work or exhibition is based, or that the matter specified is a substantial portion of such work or exhibition.

Employee: Shall mean any person who works, performs or exposes his/her specified anatomical areas in an establishment, irrespective of whether said person is paid a salary or wages by the owner or manager of the business, establishment, or premises.

Employer: Shall mean any person who pays any form of consideration, to an owner or manager of an establishment, for the privilege to work, perform or expose his/her specified anatomical areas within the establishment.

Entertainment: Shall mean any person who is an employee or independent contractor of the adult business, or any person who, without any compensation or other forms of consideration performs live entertainment for patrons of an adult business.

Escort: Shall mean a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency: Shall mean a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

Establishment: Shall mean Establishment of an adult business includes, any of the following (a) the opening or commencement of any such business as a new business; or (b) the conversion of an existing business, whether or not an adult business, to any of the adult businesses defined herein; or (c) the addition of any of the adult businesses defined herein to any other existing adult business; or (d) the relocation of any such adult business.

Gross Receipts: Shall mean and include the total amounts actually received or receivable from the sale, trade, rental, display or presentation of services, products, adult material or entertainment which are characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas,

Incidental Adult Materials Vendor: Shall mean a place is considered to be an incidental adult materials vendor of materials, if and only if, (a) at all times, not more than five-percent (5%) percent of the business stock, as measured in relation to total gross floor area of the business, is devoted to books, magazines, films, newspapers, photographs, paintings, drawings, or other publications or graphic media, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities, or specified anatomical areas; (b) all adult materials are kept in a location where no portion is visible to the public and said materials are not available to the customers of such place as a self-service item; and, (c) no adult materials are sold, rented or displayed to minors.

Individual Viewing Area: Shall mean Individual viewing areas shall mean a viewing area designed for occupancy by one person.

Manager: Shall mean a person in charge or in direct control of the affairs of the business he/she is managing.

Nightclub: Shall mean an establishment serving food and/or liquor and providing music and space for dancing by patrons only. A nightclub shall not include an "adult business."

Nude Modeling Studio: Shall mean a place where a person who appears in a state of nudity or displays male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals and is observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration.

Nudity: Shall mean the display of the human male or female genitalia, pubic hair, buttocks, perineum, anal or pubic regions, female breast (at or below the areola thereof, with no covering or with a less than any opaque covering, or male genitalia, in a discernible turgid state, with or without covering.

Nursing Home: Shall mean a private or public hospital, home, residence or other place where maintenance and personal or nursing care are provided for three or more persons who are unable to care for themselves properly.

Obscene: Shall mean any material or performance is obscene if: (a) the average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest, (b) the average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or Sadoomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and, (c) taken as a whole, it lacks serious literary, artistic, political or scientific value. (*Statutory Reference.- 720 ILCS 5/11-20*)

Opaque: Shall mean For purposes of this section, opaque shall mean the inability of a person to see through objects, such as but not limited to, windows, portholes, screens, curtains, and/or clothing.

Operator: Shall mean Any person(s), whether said person(s) be an individual, partner, corporation, joint stock company, fiduciary, officer, director, stockholder, employee, or manager that conducts, maintains or owns any adult business,

Owner, Permit Holder, or Permittee: Shall mean any of the following: (a) the Sole proprietor of an adult business; or (b) any general partner of a partner of a partnership which owns and operates an adult business; (c) the owner of a controlling interest in a corporation which owns and operates an adult business; or, (d) the person(s) designated by the officers of a corporation to be the permit holder for an adult business owned and operated by the corporation.

Park: Shall mean a tract of land which is: (a) kept for ornament and/or recreation, and which is open to the public, whether or not the land is publicly owned; or, (b) land privately owned which is kept for ornament and/or recreation purposes and which is limited to surrounding landowners. A playground shall be considered a park.

Patron: Shall mean any person patronizing an adult business who is not employed by any operator of said establishment.

Portable Structure: Shall mean a building or object capable of being transported. A "portable structure" shall include, but not be limited to, mobile trailers, outhouses and portable toilet facilities.

Rap Parlor: Shall mean an establishment or place primarily in the business of providing non-professional conversation or similar services for adults, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

Religious Activities: Shall mean any daily, weekly, or periodic activity associated with or that occurs at a religious institution.

Religious Institution: Shall mean a premises or site which is used primarily or exclusively for religious worship and related religious ecclesiastical or denominational organization or established place of worship, retreat site, camp or similar facilities owned or operated by a bona fide religious group for religious activities shall be considered a religious institution.

Residence: Shall mean a structure serving as a dwelling or a home, a temporary or permanent dwelling place, abode or habitation where a person(s) lives.

Residential Zoning District: Shall mean the following zoning districts: E-1 Estate District, and R-1, R-2 and R-3 Residential Districts.

Room: See "Booth," as defined herein.

Sadomasochistic Activity: Shall mean flagellation or torture by or upon a nude person; a person clad in undergarments, a mask or bizarre costume. In addition, the condition of being fettered bound or otherwise physically restrained with the intent to stimulate or arouse sexually the initiator and/or the recipient.

Security Guard: Shall mean a person duly licensed as a security guard as required by applicable provisions of state and/or local law.

Sell: Shall mean to solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell.

Sexual Conduct: Shall mean ultimate sex acts (whether auto-erotic, heterosexual, homosexual or otherwise), bestiality or sadomasochistic activity. In addition, physical contact, intended to stimulate or arouse sexually the

initiator and/or the recipient, with a person's unclothed genitalia, buttocks, perineum, anal or pubic regions, or female breast.

Sexual Encounter Center: Shall mean a business or commercial establishment that as one of its primary business purposes, offers for any form of consideration: (a) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or, (b) activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity.

Specified Anatomical Areas: Shall mean (a) human genitals and pubic region; or (b) cleavage of the human buttocks; or (c) that portion of the human female breast encompassed within an area falling below the horizontal line one would have to draw to intersect a point immediately above the top of the areola (the colored ring around the nipple); this definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed; or (d) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities: Shall mean (a) human genitals in a state of sexual stimulation, arousal or tumescence; (b) acts of human anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellation, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sexual intercourse, or sodomy, or (c) fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast; or (d) excretory functions as part of or in connection with any of the activities set forth in the definition of Specified Anatomical Areas subsections A and B; or (e) striptease, or the removal of clothing, or the wearing of transparent or diaphanous clothing, including models dressed only in lingerie to the point where specified anatomical areas are exposed.

Transfer of Ownership or Control of an Adult Business: Shall mean and include any of the following: (a) the sale, lease or sublease of the business; or (b) the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or (c) the establishment of a trust gift or other similar legal devise which transfers ownership or control of the business, including the transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

Underage: Shall mean any person under 18-years of age, the legally minimum age at which one can purchase or view adults-only items.

Wall Sign: Shall mean any flat sign which is placed against a building or other structure and attached thereto in such, manner that only one side is visible.

2. **PURPOSE AND INTENT.** To promote the health, safety, morals, and general welfare of the citizens of the Village while establishing reasonable and uniform, regulations to prevent effects from a deleterious location and concentration of sexually oriented businesses within the Village of Richmond. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative material, including sexually oriented materials. Similarly, it is not the intent or effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.

3. APPLICABLE DISTRICT AND OPERATIONS. Each adult business must, prior to commencement or continuation of such business, apply for and receive from the Village Board a Special Use Permit to operate an adult business in the Industrial District. Each adult business must also comply with all applicable regulations or other zoning use designations in the zoning district in which the business is located.
4. APPLICATION FOR SPECIAL USE PERMIT. In addition to the requirements of Section 4.3.5.B, the application for an Adult Business shall also include the following:
 - a.. The name and permanent address of the property owner(s) and adult use business operator(s).
 - b. The name and business address of the petitioner(s). If the petitioner(s) is a corporation, the name shall be exactly as set forth in its articles of incorporation and the petitioner(s) shall show the name and residence address of each of the officers, directors and each stockholder owning no less than 25% of the stock of the corporation, If the petitioner(s) is a partnership, the application shall show the name and residence address of each of the members, including limited partners;
 - c. A detailed description of the manner of providing proposed entertainment, including type of entertainment and the number of persons engaged in the entertainment;
 - d. Hours of operation;
 - e. A location, address and floor plan showing where the, specific entertainment uses are proposed to be conducted within the building;
 - f. The name or names of the person or persons having management or supervision of the applicant(s)' business and of any entertainment;
 - g. A statement of the nature and character of the applicant(s) business if any, to be carried on in conjunction with such entertainment;
 - h. For a renewal of the Special Use Permit, the applicant(s) in addition shall indicate any changes since the filing of the initial petition.
 - i. Whether the petitioner(s) or any of the other individuals pursuant to this Section has had a previous permit under this amendment or other similar ordinances from another village, city or county denied, suspended or revoked, including the name and location of the adult business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the petitioner(s) or any other individuals listed pursuant to this section has been a partner in a partnership or an officer, director or principal stockholder of a corporation that was permitted under this section whose permit has previously been denied, suspended or revoked, including the name and location of the adult business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
 - j. Whether the petitioner(s) or any other individual listed pursuant to this section holds any other permits and/or licenses for an adult business from another village, city or county, and if so the names and locations or such other permitted businesses.
 - k. If a person who wishes to operate an adult business is an individual, he/she must sign the application for a permit as applicant. If a person who wishes to operate an adult business is other than an individual, each individual who has a ten-percent (10%) or greater interest in the

business must sign the application for a permit as applicant. If a corporation is listed as owner of an adult business or as the entity which wishes to operate such a business, each individual having a ten-percent (10%) or greater interest in the corporation must sign the application for a permit as applicant.

5. REQUIREMENTS AND CONDITIONS. It shall be unlawful for any person to operate, engage in, conduct or engage in any adult business within the Village unless the property owner(s) and business operator(s) of the adult business first obtains a Special Use Permit in addition to the appropriate zoning in the Industrial District. Along with the base zoning requirements governing Special Use Permits, the following additional requirements shall be satisfied by adult businesses and shall be included in any approved Special Use Permit.
 - a. The adult business shall comply with the zoning, parking, development, and design standards applicable to the district in which the business is located.
 - b. Maximum occupancy load, fire exits, aisles and fire equipment shall be regulated, designed and provided in accordance with applicable building codes, in addition to any other regulations and/or standards, adopted by the Village.
 - c. All adult businesses shall comply with the off-street parking provisions of the Richmond Unified Development Ordinance.
 - d. No adult business shall be operated in any manner that permits the observation of any material depicting, describing or relating to "specified sexual activities" and/ or "specified anatomical areas" from any public way or from any location outside the building or area of such establishment. This provision shall apply to any display, decoration, sign, show window or other opening.
 - e. Lighting shall be required which is designed to illuminate all off-street parking areas serving such use for the purpose of increasing the personal safety of store patrons and reducing the incidents of vandalism and theft. Said lighting shall be shown on the required plot plans and shall be reviewed and approved by the Building Inspector in accordance with the off-street parking provisions of the Richmond Unified Development Ordinance.
 - f. No loudspeakers or sound equipment shall be used by an adult business for the amplification of sound to a level discernible by the public beyond the walls of the building in which such use is conducted or which violates any noise restrictions in effect in the Village of Richmond.
 - g. The building entrance to an adult business shall be clearly and legibly posted with a notice indicating that minors are precluded from entering the premises. Said notice shall be constructed and posted to the satisfaction of the Building Inspector of the Village of Richmond.
 - h. Landscaping shall conform to the standards set forth in accordance with the landscaping provisions of the Richmond Unified Development Ordinance, except that, if the adult business is the sole use on a lot, no planting shall exceed thirty (30) inches in height, except trees with foliage no less than 6 feet above the ground.
 - i. The adult business shall not be located, in whole or in part, within any portable structure.

- j. The adult business shall not conduct or sponsor any special events, promotions, festivals, concerts, or similar activities which would increase the demand for parking spaces beyond the approved number of spaces for the business.
- k. It shall be unlawful to sell, serve, permit or allow the consumption of alcohol in a structure and on the premises occupied by an adult business.
- l. Any adult business which allows customers to remain on the premises while viewing any live, filmed or recorded entertainment, or while using or consuming the products or service applied on the premises, shall conform to the following requirements:
 - 1. At least one security guard shall be on duty outside the premises, patrolling the grounds and parking areas, at all times while the business is open. If the occupancy limit of the premises is greater than fifty (50) persons, an additional security guard shall be on duty inside the premises. The security guard(s) shall be charged with preventing violations of law and enforcing compliance by patrons with the requirements of this ordinance, and notifying the Richmond Police Department and Building Inspector of any violations of law observed. Security guard(s) as required by this subparagraph shall be uniformed in such manner so as to be readily identifiable as a security guard by the public. No security guard required, pursuant to this subparagraph, shall act as a door person, ticket seller, ticket taker, or admittance person while acting as a security guard hereunder.
 - 2. No exterior door or window on the premises shall be propped or kept open at any time while the business is open. All exterior windows shall be covered with opaque covering at all times. Such opaque covering shall be in compliance with building codes adopted by the Village of Richmond.
 - 3. Permanent barriers shall be installed and maintained to screen the interior of the premises from public view for each door used as an entrance/exit to the business.
- m. All indoor areas of the adult business within which patrons are permitted, except restrooms, shall be open to view at all times.
- n. No adult material shall be displayed in such manner as to be visible from any location other than within the premises occupied by the adult business.
- o. No person under the age of 18-years shall be permitted within the premises at any time.
- p. The adult business shall provide and maintain separate restroom facilities for male patrons and employees and female patrons and employees. Male patrons and employees shall be prohibited from using the restroom(s) for females, except to carry out duties of repair, maintenance and cleaning of the restroom facilities. The restrooms shall be free from any adult material. Restrooms shall not contain television monitors or other motion picture or video projection, recording or reproduction equipment. The foregoing provisions of this paragraph shall not be applicable to an adult business which deals exclusively with the sale or rental of adult material which is not used or consumed on the premises, such as an adult bookstore or adult video

store, and which does not provide restroom facilities to its patrons of the general public.

- q. No adult business shall be open or operating, during the hours from 12:00 a.m. (midnight) to 4:30 P.M.
- r. The following additional requirements shall pertain to adult arcades which provide one or more viewing areas:
 - 1. Upon filing a petition for a Special Use Permit for an adult arcade, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations, the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area with no dimension greater than eight (8) feet. A professional prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a quarter inch scale with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the adult arcade to an accuracy of plus or minus six (6) inches.
 - 2. No alteration in the configuration or location of a manager's station(s) may be made without the prior approval of the Building Department.
 - 3. It shall be the duty of the owner(s) to ensure that at least one employee is on duty and situated at each manager's station at all times, that any patron is present inside the adult arcade.
 - 4. The interior of the adult arcade shall be configured in such a manner that there is an unobstructed view from a manager's station of even area of the adult arcade to which any patron is permitted access for any purpose excluding restrooms. If the adult arcade has two (2) or more manager's stations designated, then the interior of the adult arcade shall be configured in such a manner that there is an unobstructed view of each area of the adult arcade to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
 - 5. It shall be the duty of the owner(s) and it shall also be the duty of all employees present in the adult arcade to ensure that the individual viewing area remains unobstructed by any doors, walls, persons, merchandise, display racks, or other materials at all times and to ensure that no patron is permitted access to any area of the adult arcade which has been designated as an area in which patrons will not be permitted.
 - 6. No individual viewing area may be occupied by more than one person at any one time. Individual viewing areas of the adult arcade shall be operated and maintained without any hole or other opening or means of direct communication or visual or physical access between the interior space of two (2) or more individual viewing areas.

7. No individual viewing area shall contain booths, stalls, or partitioned portions used for the viewing of adult material or other forms of entertainment, having doors, curtains or portal partitions, unless such individual viewing areas containing booths, stalls or partitioned portions have at least one side open to the manager's station and visible to such manager's station. Any booth, stall or partitioned portion of an individual viewing area, authorized under this sub-paragraph, shall be constructed so as to allow twelve (12) inches of open space between the bottom of the stall or partition and the floor. Such open space shall remain unobstructed at all times.
 8. The adult arcade shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access but such lighting shall not be of an intensity as to prevent the viewing of the adult material.
 9. It shall be the duty of the owner(s) and it shall also be the duty of all employees present in the adult arcade to ensure that the illumination described above is maintained at all times that any patron is present in the adult arcade.
- s. The following additional requirements shall pertain to adult businesses providing live entertainment depicting specified anatomical areas and/or involving specified sexual activities:
1. No person shall perform live entertainment for patrons of an adult business, except upon a stage at least eighteen (18) inches above the level of the floor which is separated by a distance of at least six (6) feet from the nearest area occupied by patrons, and no patron shall be permitted within six (6) feet of the stage while the stage is occupied by an entertainer.
 2. The adult business shall provide separate dressing room facilities for entertainers which are exclusively dedicated to the entertainers use.
 3. The adult business shall provide an entrance/exit to the adult business for entertainers which is separate from the entrance/exit used by patrons.
 4. The adult business shall provide access for entertainers between the stage and the dressing rooms which is completely separated from the patrons. If such separate access is not physically feasible, the adult business shall provide a minimum three (3) foot wide walk aisle for entertainers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the entertainers capable of (and which actually results in) preventing any physical contact between patrons and entertainers.
 5. No entertainer, either before, during or after performances, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during or after performances by such entertainer on the site of the adult business.

6. Fixed rail(s) at least thirty (30) inches in height shall be maintained establishing the separations between entertainers and patrons required by this paragraph.
7. The adult business shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access with an illumination of not less than twenty (20) foot candles as measured at the floor level.
8. No tipping shall be allowed between any employee/entertainer and patrons.
- t. The adult business shall not result in an increase in crime by more than one hundred-percent (100%) in the neighborhood in which it is located as evidenced by calls to the Richmond Police Department or the McHenry County Sheriff's Department or the Illinois State Police in any three (3) month period.
- u. The establishment, maintenance or operation of the adult business shall not adversely affect other commercial or industrial enterprises in the surrounding area.

The foregoing applicable requirements of this section shall be deemed conditions of permit approval, and failure to comply with each and all of such requirements shall be grounds for revocation of the Special Use Permit.

6. LOCATION. No person shall cause or permit the operation of any proposed or existing adult entertainment establishment within the following minimum distances from the existing specified uses:
 - a. Another adult entertainment establishment: 2,000 feet
 - b. Church or religious institution: 1,500 feet
 - c. Educational institution: 1,500 feet
 - d. Residence or residential zoning district: 1,500 feet
 - e. Nursing homes: 1,500 feet
 - f. Park: 1,500 feet
 - g. Day care centers: 1,500 feet
 - h. Cemeteries: 1,500 feet
7. METHOD OF MEASUREMENT. The location distances set forth shall be measured by drawing a straight line between the closest property lines of the proposed or existing adult entertainment establishment to the nearest property line of such religious institution, educational institution, park, residence, residential zoning district, nursing home, day care center, cemetery or another adult entertainment establishment. Measurement shall be made in a straight line, without regard to intervening structures or objects.
8. SIGNS. All signs shall be conformance with Article 6 of this Title, but in no circumstance shall any sign contain photographs, silhouettes, drawing or pictorial representation of any manner per state statute.
9. STANDARDS FOR ADULT USES. No Special Use permit shall be approved for an adult business unless, after public hearing and recommendations of the Plan Commission, as is provided, the Village Board shall also find:
 - a. That the adult business shall meet all requirements and conditions found in Section 4.8.3.A.5, Requirements and Conditions.

- b. That the adult business shall not have an adverse effect on traffic flow or parking within the surrounding area.
- c. That the adult business shall not allow the generation of noise in excess of levels so great as to constitute an unreasonable interference with the rights or well being of persons outside of the confines of such establishment.
- d. That the adult business shall conform to the applicable regulations of the district in which it is to be located.
- e. That the adult business in all other respects conforms with the provisions of Section 4.3.5.

The decision of the Plan Commission to approve or deny a request for a Special Use Permit for an adult use shall be based solely on the considerations set forth in Section 4.3.3, Section 4.3.5, and Section 4.3.8 10.2 and 10.4 of the Village of Richmond Unified Development Ordinance, and all such considerations shall be applied consistently with the applicant's constitutional rights contained in the First, Fifth and Fourteenth Amendments of the United States Constitution, and Sections 2 and 4 of Article 1 of the Illinois Constitution.

- 10. **SUSPENSION AND REVOCATION OF A SPECIAL USE PERMIT FOR AN ADULT BUSINESS.** In addition to all applicable legal remedies, the Village Board may also suspend or revoke any adult business Special Use Permit if it is found that any of the following conditions exist in addition to the criteria set forth in accordance with the Adult Business provision of the Richmond Unified Development Ordinance.

- a. The operation conducted by the permittee does not comply with all applicable laws, including, but not limited to, the Village's building and zoning ordinances, the requirements of Adult Business, and the conditions of Approval of the Special Use Permit, or
- b. That the approved use has been substantially enlarged without the approval of the Zoning Enforcement Officer, that the approved use has been partially, or wholly converted to another adult business without the approval of the Zoning Enforcement Officer; that the Special Use Permit has not been established or utilized within six (6) months of its issuance.

B. PERSONAL WIRELESS FACILITIES

- 1. **SPECIAL USE PERMIT REQUIRED.** No person shall establish, construct, maintain, or operate a personal wireless service facility other than on municipal-owned property without first obtaining a Special Use Permit authorized and issued by the Village Board in accordance with the standards and procedures set forth in this Title.
- 2. **PURPOSE.** The purpose of this Section is to establish a comprehensive set of regulations pertaining to the location, siting, development, design and permitting of wireless communications facilities for all districts in the Village in order to:
 - a. facilitate the development of a wireless communications infrastructure in the Village for commercial, public and emergency uses;
 - b. encourage the co-location of wireless communications facilities;
 - c. encourage users of wireless communications facilities to configure them in a manner which minimizes the adverse visual impact of such facilities;

- d. enhance the ability of the providers of wireless communications services to provide such services to the community quickly, efficiently, and effectively;
 - e. establish the rules and procedures for approving zoning applications for wireless communication facilities; and,
 - f. minimize the total number of wireless communication facilities in the Village:
3. SCOPE. The provisions of this Article shall apply to all personal wireless service facilities, whether such facilities are used as a principal use or as an accessory use unless otherwise exempted from these regulations.
- a. PRE-EXISTING TOWERS OR ANTENNAS. Towers and antennas existing on the date this Section is adopted shall not be required to meet the requirements of this Title other than the requirements of Sub-sections 6(e), 6(f), and 6(g), below.
 - b. AM ARRAY. For purposes of implementing this Ordinance, an AM array, consisting of one (1) or more towers united and supporting a ground system which functions as one (1) AM broadcasting antenna, shall be considered one (1) tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers including the AM array. Additional towers may be added within the perimeter of the AM array by right.
4. EXEMPTIONS. The following uses and activities are exempt from the regulations of this Section.
- a. Satellite dishes forty (40) inches or less in diameter or diagonal measurement.
 - b. Existing towers and antennae and any repair, reconstruction, or maintenance of these facilities which do not create a significant change in visual impact.
 - c. Any tower or installation of any antenna which is owned and operated by a Federally licensed amateur radio station operator as part of the Amateur Radio Service, citizens band radio, or is used exclusively for receive-only antennae.
 - d. Antennae and equipment and other apparatus completely located within an existing structure whose purpose is to enhance or facilitate communication function of other structures on the site.
 - e. Personal wireless service facilities located on property owned, leased or otherwise controlled by the Village provided a lease or license authorizing such personal wireless service facilities has been approved by the Village Board.
 - f. Antenna not attached to a tower and incorporating stealth design Amateur Radio Operation/Receive Only Antennas. This Ordinance shall not govern any Towers or the installation of any Antenna that is fifty (50) or less feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive-only antennas. No receive-only antenna shall exceed the highest point on the nearest residential rooftop of a dwelling by more than ten (10) feet.
5. DEFINITIONS. As used in this Section 4.3.4.F the following words and terms shall have the meanings set forth herein:

- a. **ANCILLARY BUILDING:** shall mean the building(s), cabinet(s), vault(s), closure(s) and equipment required for operation of telecommunication systems, including but not limited to repeaters, equipment housing, relay equipment, ventilation and other electrical and mechanical equipment.
- b. **ANTENNA:** shall mean a device commonly in the form of a metal rod, wire panel or dish, for transmitting or receiving electromagnetic radiation. An antenna is typically mounted on a supporting tower, pole, mast, building, or other structure.
- c. **CO-LOCATION:** shall mean the placement of two or more antenna systems or platforms by separate FCC license holders on a structure such as a support structure, building, water tank, or utility pole.
- d. **GUYED TOWER:** shall mean a tower that is supported by the use of cables (guy wires) which are permanently anchored.
- e. **LATTICE TOWER:** shall mean a tower characterized by an open framework of lateral cross members which stabilize the tower.
- f. **MAST:** shall mean a vertical element consisting of a tube or rod which supports an antenna.
- g. **MONOPOLE:** shall mean a single upright pole engineered to be self-supporting and does not require lateral cross supports or guys.
- h. **PERSONAL WIRELESS SERVICES:** shall mean commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.
- i. **PERSONAL WIRELESS SERVICE FACILITIES:** shall mean facilities for the provision of personal wireless services.
- j. **STEALTH DESIGN:** shall mean a personal wireless service facility that is designed or located in such a way that the antennas and/or towers are camouflaged, concealed, disguised and otherwise not readily recognizable as telecommunications equipment. Examples of stealth design include concealing antenna in clock towers, bell steeples, on light poles, and integrating antenna into architectural elements on buildings by color, shape or location on the building.
- k. **TOWER:** shall mean a vertical framework of cross elements that supports either an antenna, mast, or both.
- l. **UNLICENSED WIRELESS SERVICE:** shall mean the offering of telecommunications services using duly authorized devices which do not require individual licenses issued by the FCC, but does not mean the provision of direct-to-home satellite services as defined by the FCC.
- m. **WIRELESS COMMUNICATION FACILITY:** shall mean an unstaffed facility for the transmission or reception or reception of radio frequency (RF) signals, usually consisting of an equipment shelter, cabinet or other enclosed structure containing electronic equipment, a support structure, antennas or other transmission and reception devices. Amateur radio facilities and facilities used exclusively for the transmission of television and radio signals are not considered wireless communication facilities.
- n. **WIRELESS COMMUNICATION FACILITY, ATTACHED:** shall mean a wireless communication facility that is affixed to an existing structure, e.g., an existing building wall or roof, mechanical equipment, tower or pole, water tank, utility pole, or light pole, that does not include an additional wireless communication support structure.

4. The antenna utilizes stealth design.
- f. ANTENNAS ON EXISTING TOWERS. An antenna which is attached to an existing tower may be approved by the Village and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, co-location of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such co-location is accomplished in a manner consistent with the following:
1. A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same tower type as the existing tower, unless the Village allows reconstruction as a monopole.
 2. HEIGHT.
 - i. An existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height, to accommodate the co-location of an additional antenna provided the total height shall not exceed one hundred fifty (150) feet.
 - ii. The height change referred to in this Subsection may only occur one time per communication tower.
 - iii. The additional height referred to in Section 4.3.4.F.6(f)3(i) shall not require a distance separation. The tower's pre-modification height shall be used to calculate such distance separations.
 3. ON-SITE LOCATION.
 - i. A tower which is being rebuilt to accommodate the co-location of additional antenna may be moved onsite within fifty (50) feet of its existing location.
 - ii. After the tower is rebuilt to accommodate co-location, only one tower may remain on the site.
 - iii. A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers. The relocation of tower hereunder shall in no way be deemed to cause a violation of this Ordinance.
- g. BUILDING CODES/SAFETY STANDARDS. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in the current and applicable state of local building codes and the applicable standards to towers that are published by the Electronic Industry Association, as amended from time to time. If, upon inspection, the Village concludes that a tower fails to comply with such codes and standards and constitutes a danger to person or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within the thirty (30) day period shall constitute grounds for removal of the tower or antenna at the owner's expense.
- h. FRANCHISES. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or

operation of a wireless communications system in the Village have been obtained and shall file a copy of all required franchises with the Village.

- i. INVENTORY OF EXISTING SITES. Each applicant for an antenna and/or tower shall provide the Development Administrator an inventory of its existing towers, antennas, or sites approved for towers and antennas, that are either within the jurisdiction of the Village or within one and one-half (1½) miles of the border thereof, including specific information about the location, heights, and design of each tower. The Village may share such information with other applicants applying for administrative approvals of Special Use Permits under this Ordinance or other organizations seeking to locate antennas within the jurisdiction of the Village, provided, however that the Village is not, by sharing such information, in any way representing or warranting such sites are available or suitable.
 - j. LOT SIZE. For purposes of determining whether the installation of a tower or antenna complies with the district bulk regulations, including but limited to setback requirement, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels or easements within such lot.
 - k. MEASUREMENT. For purposes of measurement, tower setback and tower separation distances shall be calculated and applied to facilities located in the Village irrespective of municipal jurisdictional boundaries.
 - l. MULTIPLE ANTENNA/TOWER PLAN. The Village encourages all plans for tower and antenna sites to be submitted in a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.
 - m. NOT ESSENTIAL SERVICES. Towers and antennas shall be regulated and permitted pursuant to this Ordinance and shall not be regulated or permitted as essential services, public utilities, or private utilities.
 - n. PRINCIPAL OR ACCESSORY USE. Antennas and towers may be considered principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
 - o. STATE OR FEDERAL REQUIREMENTS. All towers must meet or exceed current standards or regulations of the FAA, the FCC, or any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Ordinance shall bring such towers and antennas into compliance with such revised standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency.
7. ADDITIONAL APPLICATION REQUIREMENTS. In addition to any information required for applications for Special Use Permits pursuant to Section 4.3.5.B, applicants for a Special Use Permit for a personal wireless service facility shall submit the following information:
- a. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Comprehensive Plan designation of the site and all adjoining, adjacent

roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Development Administrator to be necessary to assess compliance with this ordinance.

- b. Legal description of the parent tract and leased parcel (if applicable).
 - c. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
 - d. The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 4.3.4.F.6(i) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
 - e. A landscape plan showing specific landscape materials.
 - f. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
 - g. A description of compliance with Section 4.3.4.F.6 and all applicable federal, state or local laws.
 - h. A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.
 - i. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
 - j. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
 - k. A description of the feasible location(s) of future towers or antennas within the Village based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
8. FACTORS CONSIDERED IN GRANTING SPECIAL USE PERMIT FOR TOWERS. In addition to any standards for consideration of Special Use Permit applications pursuant to Article 4.3, the Plan Commission shall consider the following factors in determining whether to issue a Special Use permit, although the Plan Commission may waive or reduce the burden on the application of one or more of these criteria if the Plan Commission concludes that the goals of this ordinance are better served thereby:
- a. Height of the proposed tower;
 - b. Proximity of the tower to residential structures and residential district boundaries;
 - c. Nature of uses on adjacent and nearby properties;
 - d. Surrounding topography;
 - e. Surrounding tree coverage and foliage;
 - f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - g. Proposed ingress and egress; and

- h. AVAILABILITY OF SUITABLE EXISTING TOWERS, OTHER STRUCTURES, OR STEALTH DESIGN. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Plan Commission that not existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's a proposed antenna. An applicant shall submit information requested by the Plan Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
1. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
 2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 7. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/ receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

C. (RESERVED)

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ARTICLE 4.4

PLANNED DEVELOPMENTS

4.4.1. Purpose. The development and execution of zoning regulations is based upon the division of the Village into districts in which the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized by the Village that new building typologies, procedures and relationships in land development are emerging and that the mixing of uses and variations in bulk regulations within districts can produce very satisfactory, desirable and lasting results, if properly designed and planned, without adverse influence upon surrounding property. The following standards are established to provide flexibility to encourage sound and imaginative design, and to guard against the use of the Planned Development technique solely as a means to intensify the use of land.

4.4.2. Objectives. The Planned Development is intended to encourage improved design in the development of land by providing relief from traditional zoning requirements which are designed for conventional development but which may cause undue hardship or complication for desirable but unconventional development, and to establish standards and procedures for the issuance of a Special Use Permit for a Planned Development in order to obtain the following objectives:

- A. Environmental design in the development of land that is of a higher quality than is normally possible through the strict application of general zoning requirements.
- B. Diversification in the use permitted and variation in the relationship of uses, structures, open spaces and heights of structures in developments conceived as cohesive unified projects.
- C. Provision for functional and beneficial use of open space.
- D. Preservation, to the greatest extent possible, of the archeological and historic resources and natural landscape features and amenities of a development site and to utilize such features in a harmonious fashion in the development.
- E. Provision for a safe and desirable environment characterized by a sensitive and unified building and site development program.
- F. Rational and economic development in relation to public services.
- G. Creation of a variety of uses, in compatible arrangements, to provide a greater choice of living, employment and shopping environments.
- H. Efficient use of land resulting in more economic networks of utilities, streets and other facilities.
- I. Coordination of architectural styles, building forms and relationships, graphics and other private improvements.

4.4.3. Modification of District Regulations. Planned Developments shall be constructed in each zoning district as a Special Use subject to the standards and procedures set forth in this Article:

- A. Except as modified by and approved in the ordinance approving a Final Development Plan, a Planned Development shall be governed by the regulations of the district or districts in which the said Planned Development is located.
- B. The ordinance approving the Final Development Plan for the Planned Development may provide for such exceptions from the district regulations governing use, density, area, bulk, parking and signs, and the subdivision design standards as may be necessary or desirable to achieve the objectives of the proposed Planned Development, provided such exceptions are consistent with the standards and criteria contained in this Article. No modifications of district requirements or subdivision design standards may be allowed when such proposed modification would result in:
 1. Inconvenient or unsafe access to the Planned Development.
 2. Traffic congestion in the streets which adjoin the Planned Development.

3. An undue or disproportionate burden on public parks, recreational areas, fire and police protection, schools, and other public facilities which serve or are proposed to serve the Planned Development.
 4. A development which will be incompatible with the purpose of this Title and the goals and objectives of the Richmond Comprehensive Plan;
 5. Alteration, destruction, or diminution of natural landscape features such as floodplains, wetlands, fens, woodlands, prairie, rock outcroppings, seeps, springs, or steep slopes; and
 6. Alteration, destruction of archeological and historic features.
- C. The Plan Commission may recommend to the Village Board and the Village Board may grant a Special Use Permit which modifies the applicable district zoning regulations and subdivision regulations upon a written finding by the Plan Commission that the Planned Development meets the applicable objectives and standards and criteria contained in Section 4.4.2, Section 4.4.4, Section 4.4.5, Section 4.4.6, and Section 4.4.7 of this Chapter. Such written finding shall set out the reasons supporting each finding and shall support each of the following standards and the applicable provision of Section 4.4.2, Section 4.4.4, Section 4.4.5, Section 4.4.6, and Section 4.4.7 hereof.

4.4.4. General Standards and Criteria for Planned Developments. No Planned Development shall be authorized by the Village Board unless the Plan Commission shall find evidence establishing that:

- A. The proposed development will not injure or damage the use, value and enjoyment of surrounding property nor hinder or prevent the development of surrounding property in accordance with the Richmond Comprehensive Plan.
- B. The proposed development can be substantially completed within the period for time specified in the schedule of development submitted by the applicant.
- C. The entire tract or parcel of land to be occupied by the proposed development shall be held in a single ownership, or if there are two or more owners, the application for such proposed development shall be filed jointly by all such owners.
- D. The development plan shall contain such proposed covenants, easements and other provisions relating to the bulk and location of buildings, uses and structures and public facilities as are necessary for the welfare of the Planned Development and are not inconsistent with the best interests of the Village. Such covenants, easements and other provisions, when part of the approved final development, may be modified, removed or released only with the consent of the Village Board after a public hearing before, and recommendation by the Plan Commission as provided in this Article 4.4.
- E. Sanitary sewers, storm sewers and water supply to service the development are adequate to serve the proposed development and will not reduce existing capacity below that necessary to serve existing developments, or overload local facilities beyond design capacity.
- F. The location and arrangement of structures, parking areas, walks, lighting and appurtenant facilities is compatible with the surrounding land uses, and any part of a proposed development not used for structures, parking and loading areas, or access ways, is landscaped or otherwise improved.
- G. The project area is adaptable to unified development and shall have within or through the area no physical features that will tend to destroy the neighborhood or community cohesiveness. There is no minimum project area for a Planned Development.
- H. The uses permitted in the development are necessary or desirable and the need for such uses is clearly demonstrated by the applicant.
- I. The dominant land use of the proposed Planned Development is consistent with the recommendations of the Richmond Comprehensive Plan for the area containing the project.

- J. Any modifications of the standards and specifications of this Ordinance or other regulations that would otherwise be applicable to the site are warranted by the design of the development plan, and the amenities incorporated in it, and are not inconsistent with the public general welfare.
 - K. Exceptional landscaping features such as larger caliper, varied species and reduce spacing of trees and additional sodding above the minimum requirements specified in Article 6.6 is provided.
 - L. All proposed streets and driveways are adequate to serve the residents, occupants, visitors or other anticipated traffic of the Planned Development. Entrance points or locations of streets and driveways upon existing public roadways shall be subject to the approval of the Village, and if applicable, the McHenry County Highway Department, and the Illinois Department of Transportation. If traffic control devices are required to prevent or relieve hazards or congestion on adjacent streets and the proposed control device is not within the normal or scheduled sequence of installations, the Village Board may require, as a condition of approval of a proposed Planned Development, such devices to be provided at the developer's cost.
 - M. Off-street parking is conveniently accessible to all dwelling units and other uses in the Planned Development. Where appropriate, common driveways, parking areas, walks, and steps to parking and service areas are to be screened through ample use of trees, shrubs, hedges, land forms and walls.
 - N. A pedestrian circulation network is provided.
 - O. The Planned Development provides for underground installation of utilities (including electricity and telecommunications) in public ways and private extensions thereof. Provisions shall be made for acceptable design and construction of storm sewer facilities including grading, gutter, piping and treatment of turf to handle storm water, prevent erosion and the formation of dust. Utilities and maintenance of facilities shall be in accordance with the requirements and regulations of the Village as set forth in this Ordinance.
 - P. The proposed Planned Development satisfies the applicable objectives as provided in Section 4.4.2.
 - Q. Existing ponds, creeks, rivers, lakes, wetlands or fens on or adjacent the Planned Development are enhanced and protected from development.
- 4.4.5. Application Procedures.** All Planned Developments shall be processed and reviewed in four steps leading to approval for recording and construction: pre-application conference, concept development plan, preliminary development plan, and final development plan. Prior to beginning the Planned Development review process, the applicant is encouraged to obtain from the Village a copy of the Richmond Comprehensive Plan, the Unified Development Ordinance, and application forms. Applications shall be made on forms supplied by the Village and shall be made in accordance with the provisions of Chapter 4, except as specifically provided herein to the contrary.
- A. **PRE-APPLICATION CONFERENCE.** Before submitting an application for Planned Development, the applicant shall confer with the Village staff and consultants as needed to informally discuss the proposed Planned Development to obtain information and guidance before entering into binding commitments or incurring substantial expense.
 - B. **CONCEPT PLAN.**
 - 1. An applicant shall submit a Concept Plan in accordance with the provisions of this Title to the Village for tentative review and approval prior to incurring the expenses associated with formal site plan submission in order to discover whether the Village will accept, or under what circumstances the Village will accept, a Planned Development of the type proposed at the site. The following items shall be required:

- a. Maps which are part of the Concept Plan may be in general form, and shall contain the proposed land uses, the natural features of the site, the character and approximate density of dwellings, and the approximate location of proposed thoroughfares and water, sewage and drainage systems.
 - b. The written statement shall contain a general explanation of the size and character of the Planned Development, including a statement of the present ownership of all the land within the Planned Development and expected schedule of construction.
2. The Plan Commission shall review the Concept Plan within thirty (30) days after receipt of such plan, and shall prepare a written report containing its recommendations to the Village Board and the applicant. Approval of the Concept Plan does not guarantee approval of the preliminary development plan.
 3. The Village Board shall accept or reject the Plan Commission recommendation within thirty (30) days following the date of action by the Plan Commission.
- C. PRELIMINARY DEVELOPMENT PLAN.
1. The Preliminary Development Plan shall contain all items required for a Preliminary Subdivision Plat as enumerated in Article 4.5. The following additional items shall also be required:
 - a. A plot plan for each building site and planned open area, showing the approximate location of all buildings, structures, and improvements and indicating the open space around the buildings and structures.
 - b. A preliminary drawing indicating the architectural character of all proposed structures and improvements. The drawings need not to be the result of final architectural decisions and need not to be in detail.
 - c. A development schedule indicating:
 1. The approximate date when construction of the project can be expected to begin.
 2. The stages in which the project will be built and the date when construction of each stage can be expected to begin;
 3. The date when the development of each of the stages will be completed; and
 4. The area and locations of planned open space that will be provided at each stage.
 - d. Proposed agreements, by-laws, provisions or covenants which govern the use, maintenance and continued protection of the Planned Development and any of its planned open space or other facilities.
 - e. A statement by the applicant demonstrating how the Planned Development conforms with the purpose and the standards and criteria of this Section.
 - f. If the Plan Commission finds that the Planned Development requires further in-depth review, the following information may be required:
 1. A circulation diagram indicating the proposed movement of vehicles, goods and pedestrians within the development to and from existing Village thoroughfares.
 2. A comprehensive drainage plan with analysis of the impact that the development creates on the site and on the surrounding area.

2. The Plan Commission shall review the Preliminary Development Plan and shall recommend whether it is in substantial compliance with the Concept Plan and whether it complies with all other standards in this Ordinance which were not considered when the Concept was approved.
 3. Upon completion of the staff review, the Plan Commission shall, within sixty (60) days of receiving a Preliminary Development Plan, complete in all respects, hold a public hearing after due public notice and recommend to the Village Board the approval or denial of the proposed Planned Development. If the recommendation is to disapprove, the report shall set forth the findings of fact related to the specific proposal and shall set forth particularly in what respects the proposal would or would not be in the public interest, including, but not limited to, findings of fact on the following:
 - a. In what respects the proposed plan is or is not consistent with the stated purpose of the Planned Development regulations.
 - b. The extent to which the proposed Planned Development departs from the zoning and subdivision regulations otherwise applicable to the subject property, including, but not limited to, the density, dimension, area, bulk, use and the reasons why such departures are or are not in the public interest.
 - c. The extent to which the proposed Planned Development meets the requirements and standards set forth in this Section 4.4.
 - d. The physical design of the proposed Planned Development and the manner in which said design does or does not make adequate control over vehicular traffic, provide for and protect designated planned open space and schools, and further the amenities of light and air, recreation and visual enjoyment.
 - e. The Planned Development's conformity with the recommendations of the Richmond Comprehensive Plan.
 4. Within thirty (30) days of the Plan Commission recommendation, the Village Board shall approve, approve with modifications, or disapprove the Preliminary Development Plan.
 5. No plats shall be recorded and no building permits issued in connection with a Planned Development until a Final Development Plan has been approved by the Village Board.
- D. FINAL DEVELOPMENT PLAN.
1. Within one (1) year following the approval of the Preliminary Development Plan, the applicant shall file with the Village a Final Development Plan for the first phase of development, containing in final form the information required in the Preliminary Plan. The Final Development Plan shall also include all items required for a Final Subdivision Plat and final engineering as enumerated in Article 4.5. In addition, the following items shall be required:
 - a. A final land use plan, suitable for recording with the McHenry County Recorded of Deeds. The purpose of the Final Development Plan is to designate the land subdivided into lots as well as the division of other lands not so treated into planned open area and building areas, and to designate and limit the specific internal uses of each building or structures, as well as of the land in general.
 - b. If subdivided lands are included in the Planned Development, a subdivision plat of all subdivided lands in the same form and meeting all the requirements of a subdivision plat.

- c. An accurate legal description of each separate un subdivided use area, including planned open space.
 - d. Designation of the location of all buildings to be constructed, and a designation of the uses for which each building is designated.
 - e. Final agreements, by-laws, provisions or covenants which govern the use, maintenance and continued protection of the Planned Development and any of its planned open space or other facilities conveyed to a homeowners association or similar organization.
 - f. Final development and construction schedule.
 - g. Final architectural elevations for all structures and amenities, such as fences and walls, street furniture, and the like.
2. The Final Development Plan shall be approved as follows:
- a. The Plan Commission shall, within thirty (30) days of receiving a Final Development Plan application, recommend approval if it is in substantial compliance with the Preliminary Development Plan. The Plan commission shall certify to the Village Board that the Final Development Plan is in conformity with the previously filed Preliminary Development Plan and meets all the requirements for a Final Development Plan.
 - b. If the Plan Commission finds that the Final Development Plan does not substantially conform to the Preliminary Development Plan or that it does not meet the requirements for a Final Development Plan, it shall so notify the applicant and the Village Board in writing within thirty (30) days of receipt of a completed Final Development Plan.
 - c. The Village Board shall approve the Final Development Plan if it is in conformance with the Preliminary Development Plan and meets all the requirements for a Final Development Plan. It shall pass an appropriate ordinance granting the Special Use Permit.
- E. COMBINED PRELIMINARY AND FINAL DEVELOPMENT PLAN. The Village may consider a combined application for preliminary and final development plan approval. In such instance the final development plan shall include all of the information required of a preliminary development plan and a final development plan.

4.4.6. Administration of Planned Developments.

- A. FAILURE TO BEGIN DEVELOPMENT. If no substantial construction has begun or no use established in the Planned Development within the time stated in the approved final development plan and construction schedule, the Special Use Permit for the Planned Development shall lapse upon written notice to the applicant from the Village Board and shall be of no further effect. The land use and development regulations applicable before the Special Use Permit for Planned Development was approved shall then be in effect. In its discretion and for good cause, the Village Board may extend for a reasonable time, not to exceed one (1) year, the period from the beginning of construction or the establishment of a use, provided such extension is granted during the original period.
- B. PERMITS.
- 1. The Development Administrator shall approve the issuance of permits for site or building construction for that part of the development plan that has been approved in the area covered by the approved Final Development Plan for work in conformity with the approved Final Development Plan and with all other applicable ordinances and regulations.
 - 2. A certificate of occupancy for any completed building or structure located in an area covered by the approved Final Development Plan shall be issued if the

completed building or structure conforms to the requirements of the approved Final Development Plan and all other applicable regulations and ordinances of the Village. The Village reserves the right to deny approval of an occupancy permit for any building or structure shown on the Final Development Plan of any stage of the Planned Development if any planned open space or public facilities allocated to that stage of the development have not been conveyed by dedication, deed or other means to the proper authorities.

C. ENFORCEMENT OF DEVELOPMENT SCHEDULE.

1. The Development Administrator shall periodically review all permits issued for the Planned Development, examine all construction that has taken place on the Planned Development site, and compare actual development with the approved development schedule.
2. If the Development Administrator shall find that the owners of the property in the Planned Development area have failed to meet the approved development schedule, or that the rate of construction of dwelling units is greater than the rate at which planned open space and public and recreational facilities have been constructed and provided, the Development Administrator shall notify the Plan Commission and Village Board in writing.
3. Within thirty (30) days of such notice, the Village Board shall either revoke the Special Use Permit, and the land shall revert to its former classification, or, for good cause shown by the landowner, the limits of the development schedule shall be extended for a reasonable time.

D. AMENDING THE FINAL DEVELOPMENT PLAN. No changes may be made to the approved Final Development Plan during the construction of the Planned Development except upon the application to the appropriate agency under the following procedures:

1. Minor changes in the location, siting and height of buildings and structures may be authorized by the Plan Commission if required by engineering or other circumstances not foreseen at the time the Final Development Plan was approved. No change authorized by this Section may increase the cube of any building or structure by more than ten-percent (10%).
2. All other changes, in time schedule and in use, any rearrangement of lots, blocks and building tracts, any changes in the provision of planned open space and all other changes in the approved Final Development Plan shall be made by the Village Board, upon recommendation of the Plan Commission, under the procedure authorized by this Title for approval of the Special Use Permit.
3. Any changes approved shall be recorded as amendments to the recorded copy of the Final Development Plan.

E. POST-COMPLETION REGULATIONS.

1. Upon completion of the Planned Development, and as a condition of the Village's acceptance of the final public improvements, the Development Administrator shall certify said Planned Development has been completed in accordance with the approved Final Development Plan.
2. After said Certification has been issued, the uses of land and construction, modification or alteration of any buildings or structures within the Planned Development shall be governed by any other provision of this Title.
3. After said Certification has been issued, no changes may be made in the approved Final Development Plan except upon application to the Village under the procedures for seeking changes or amendments, Special Uses and variations with respect to the Richmond Unified Development Ordinance, as set out in this Title.

Article 4.5

SUBDIVISION PLATS AND DEVELOPMENT PLANS PROCEDURES

- 4.5.1. Purpose.** This Article establishes the procedure to be followed by a landowner or developer who proposes to subdivide or develop any land subject to the terms of this Title. Although separate requirements are specified for subdivisions and developments regulated by this Title, to the extent feasible Applicants are urged to consolidate petitions for subdivision, development, zoning or annexation in one proceeding. It encourages Applicants to review concept plans with the Village's staff and consultants and the Plan Commission before filing a preliminary plat or plan. This Article identifies the contents of preliminary and final plats, plans and supporting data. This Article enumerates standards governing decision making hereunder and establishes a review process, which consists of the following steps: pre-application meeting, Site Analysis, Concept Plan, Preliminary Subdivision Plat/Development Plan, final engineering, and Final Subdivision Plat/Development Plan.
- 4.5.2. Conservation Design Practices Required.** Any subdivision and development of land in the Village and within the Village's statutory 1-1/2 mile extra-territorial planning jurisdiction shall be designed using the application of conservation design principles and practices. It is the objective of this Title to encourage more efficient use of land and public services through unified development in order to protect and to enhance the biodiversity of the ecosystem in the Village's planning jurisdiction. To this end, the Village will consider development and subdivision of land provided that open space is established that when linked together will permit preservation of habitat for flora and fauna; preserve land for farming operations; provide linkages for local and regional trail systems; provide for conservation and renewal of water resources; and, conservation of hilly terrain, wetlands, prairies, woodlands, and other unique natural features that contribute to and are part of the diversity of the natural ecosystem in Richmond and contribute to the community character.
- 4.5.3. Major and Minor Subdivisions.** For the purposes of this Article, there are hereby established two classes of subdivision: major subdivisions and minor subdivisions, and are described as follows:
- A. MAJOR SUBDIVISIONS. Major subdivisions require the approval of a concept plan, preliminary plat and a final plat as required by Sections 4.5.3, 4.5.4, and 4.5.6 of this Article. A major subdivision is one having one or more of the following characteristics:
1. The subdivision has four (4) lots or more.
 2. The total area of the subdivision is greater than five (5) acres in size.
 3. There are proposed public streets, alleys, easements, parks, common areas
 4. There are required improvements to be made within a public right-of-way other than concrete sidewalks, landscaping, monuments, storm sewers, and lateral extensions of sanitary sewers and water mains.
 5. There are variances or exceptions requested from this Title.
 6. The subject property is being designed and developed as a Planned Development.
- B. MINOR SUBDIVISIONS. Minor subdivisions require only approval of a final plat in accordance with the requirements contained in Section 4.5.6. A minor subdivision has all of the following characteristics:
1. The subdivision has not more than three (3) lots.
 2. There are no buildings or significant structures on the land to be subdivided.
 3. The total area of the subdivision is less than five (5) acres.

4. There are no new proposed dedicated streets, alleys, easements, parks or common areas, except streets and alleys adjacent the frontage of the subject property.
5. Except for concrete sidewalks, landscaping, monuments, lateral extensions of sanitary and storm sewers, water mains, there are no other required improvements to be made in the public right-of-way.
6. No variances or exceptions from this Title are requested.

4.5.4. Pre-Application Meeting. Prior to filing any application for a Site Analysis, Concept Plan, subdivision plat, or development plan the subdivider or developer shall meet with the Development Administrator unless the pre-application meeting has been waived by the Development Administrator. This meeting requires no application, fees or filing plans. At the pre-application meeting the Development Administrator shall review with the subdivider or developer the following issues as they relate to the proposed subdivision or development: general planning and development policies of the Village; existing zoning and land use in the general area of the subject property; the Village's procedures for subdivision and development of land; and, other pertinent factors.

4.5.5. The Site Analysis. Prior to preparing a Concept Plan, development plan or subdivision plat, the Applicant shall prepare and submit to the Development Administrator a site analysis for the purpose of determining what existing conditions or features located on the site are desirable to preserve and protect and identify natural and man-made conditions or features which present obstacles that must be considered and overcome in the proposed design. Conservation design practices are required on all parcels of land regardless whether any natural areas or natural resources are present on or adjacent the property.

- A. **SITE ANALYSIS REQUIRED INFORMATION.** The site analysis shall include a graphic inventory of all existing natural and man-made features located on the site. At minimum, the site analysis shall include a map(s) drawn at a scale of no less than one inch equals 100 feet that depict the following:
1. A topographic survey that extends a minimum of two hundred (200) feet outside the boundaries of the site with a vertical contour interval of two feet or less identifying all areas with slopes of more than twelve-percent (12%), including the location of all property lines and easements.
 2. A drainage analysis showing the direction of existing drainage patterns and drainage divides including any floodplain and wetland areas and a topography map indicating what watershed the site is located in.
 3. A delineation showing any woodlands at the drip line that form a biological community dominated by trees having an average canopy height greater than twenty (20) feet and other woody plants covering a land area of at least ten thousand (10,000) square feet and generally characterized by a tree density of one hundred (100) or more trees per acre with at least fifty-percent (50%) of such trees having a diameter at breast height (4.5 feet above ground level) of two (2) inches or greater. An orchard or tree nursery is not considered woodland for purposes of this Section. The predominant tree species within the woodland shall be identified.
 4. The location of all Protected Trees (as defined in the Article 6.12) on the site; for purposes of this Section, a specimen tree is a tree in good health that is of unusual or exceptional form, size, age or shape for its species and/or occupying a significant position within the site (individual specimen trees should be identified as to species, size and health).
 5. A vegetation analysis showing and identifying any hedgerows, meadows and prairies, and farm land. Vegetation should be identified as evergreen or

deciduous with the relative health and condition indicated. The predominant species of vegetation in a hedgerow should be identified.

6. A soils analysis showing the location of general soil types, highlighting hydric soils.
7. The boundaries and characteristic of any primary or secondary environmental corridor and isolated natural resource area as identified in the Village Comprehensive Plan, or other appropriate plan or ordinance adopted by the Village shall be identified.
8. The location of any historic or cultural features.
9. The location of all existing buildings and structures indicating their use and condition.
10. The location and classification of all existing streets adjacent to the site.
11. The use and existing conditions of all other properties surrounding the site within two hundred (200) feet identifying any potential open space or trail connections.
12. No new lot lines or road right-of-way shall be shown on the Site Analysis.
13. Upon review, Village Staff may require that additional areas be included or that additional information be provided to supplement the above minimum required information.

B. PROCEDURES FOR REVIEW OF THE SITE ANALYSIS.

1. Village Staff Review. Within fourteen (14) days after receipt of an application, the Development Administrator shall determine the completeness of the application and shall notify the Applicant in writing that the application for Site Analysis approval has or has not been accepted for review. If the application is determined to be incomplete the Development Administrator shall include in his written notice the reasons why the application is not complete and how the Applicant can make the application acceptable for submission and distribution. Only upon receipt of a complete application shall the Development Administrator distribute copies of the application and supporting documents to such Village staff, consultants, and outside agencies as deemed appropriate for review and comment concerning compliance with Village development goals and requirements. Within fourteen (14) days of receipt of the complete application, the Development Administrator shall advise the Applicant, in writing, that the concept plan conforms or fails to conform to the requirements of the Village Comprehensive Plan, the Unified Development Ordinance, or other provisions of the Municipal Code. If the concept plan fails to conform, the Development Administrator shall specify the reasons the Concept Plan fails to satisfy Village development goals and requirements.
2. Delineation of Preservation Areas. Upon the Applicant's receipt of notice that the Applicant's Site Analysis has been approved, Applicant shall meet with the Development Administrator, and others as may be deemed necessary by the Development Administrator, to determine the areas on the property to be set aside as Preservation Areas, Protected Areas, and Development Areas:
 - a. Preservation Areas. Preservation Areas are those portions of the site that shall be set aside for permanent protection. Preservation Areas shall include (i) all areas that are protected through Local, State, and Federal regulations such as floodplains, floodway and wetlands; (ii) environmentally sensitive areas that connect to a Village, Township or County park or forest preserve or conservation area; (iii) the area of woodlands at the drip line, structures and features of the site that

contribute to the character of the site and the community; and, (iv) economically viable farmland that can be used as a buffer or edge treatment and/or combined with other farmland on adjoining property to form a viable tract for farming operations.

- b. Protected Areas. Protected Areas are those portions of the site that shall be set aside for limited development. Protected Areas shall include all areas that are likely to be locations of storm water management improvements, or offer vista and/or view opportunities. Development in Protected Areas is not prohibited but will be limited in use and density.
 - c. Development Areas. Development Areas are those portions of the site on which development will be permitted.
3. Site Capacity. Only upon agreement of the designation of Preservation Areas shall the calculation of the site capacity (or the number of dwelling units permitted) be determined. The Applicant shall determine the net buildable acreage by subtracting from the gross acreage of the property the following conditions or attributes, substantiated by sufficient plans and data to verify such calculations (all site capacity calculations shall be to two (2) decimal places):
- a. Existing streets and utility rights-of-way/easements
 - b. Floodplain
 - c. Wetland
 - d. Existing pond, lake or stream (at high water level)
 - e. Slopes greater than twelve percent (12%)
 - f. Fifty percent (50%) of any woodlands

The maximum number of lots that may be developed on a site is determined by dividing the net buildable acreage by the permitted density for the underlying land use classification as set forth in the Richmond Comprehensive Plan or as may be established by the Village Board. The maximum number of lots shall be subject to modification based upon the design requirements set forth in this Title. All fractional numbers of lots shall be rounded to the nearest whole integer. For purposes of calculating site capacity, where two (2) or more conditions or attributes overlap, the overlapping acreage shall be counted only once using the more restrictive classification.

4.5.6. The Concept Plan. In order to discuss the general purpose of the subdivision or development in the context of the Site Analysis and established planning policies and practices of the Village and to ensure that required data is properly prepared and presented before expending the time and money in preparation and review of a preliminary plat or plan, any person desiring to subdivide or develop land subject to this Article before filing a preliminary plat or development plan or seeking annexation or rezoning, shall file a concept plan of the subdivision or development with the Development Administrator.

A. PROCEDURES FOR REVIEW OF THE CONCEPT PLAN.

1. **VILLAGE STAFF REVIEW OF CONCEPT PLAN.** Within five (5) business days after receipt of an application, the Development Administrator shall determine the completeness of the application and shall notify the applicant in writing that the application has or has not been accepted for review. If the application is determined to be incomplete the Development Administrator shall include in his written notice the reasons why the application is not complete and how the applicant can make the application acceptable for submission and distribution. Only upon receipt of a complete application shall the Development Administrator distribute copies of the application and supporting documents to such Village staff, consultants, and outside agencies as deemed appropriate for review and comment concerning compliance with Village development goals and requirements. Within fourteen (14) days of receipt of the complete

application, the Development Administrator shall advise the applicant, in writing, that the concept plan conforms or fails to conform to the requirements of the Village Comprehensive Plan, the Unified Development Ordinance, or other provisions of the Municipal Code. If the concept plan fails to conform, the Development Administrator shall specify the reasons the Concept Plan fails to satisfy Village development goals and requirements.

2. **PLAN COMMISSION REVIEW OF CONCEPT PLAN.** Upon receipt of all the material required by Section 4.5.6(B) for the Concept Plan, the Development Administrator shall circulate the concept plan to the Plan Commission. The Plan Commission shall place the matter on its agenda and shall serve notice upon the Applicant of the time and place of its meeting at which said matter will be discussed. The Plan Commission shall forward its written report to the Village Board recommending support or non-support of the Concept Plan within sixty (60) days from the date of the filing of a complete application. If the recommendation is not to support, the report shall set forth the reasons for its failure to support and specify with particularity the aspects in which the proposed Concept Plan fails to satisfy Village development goals and requirements.
 3. **VILLAGE BOARD REVIEW OF CONCEPT PLAN.** The Village Board, by resolution, shall accept or reject the Concept Plan within thirty (30) days after its next regularly scheduled meeting following the date of action of the Plan Commission. If it rejects the Concept Plan, the resolution shall set forth the reasons for its disapproval and specify with particularity the aspects in which the proposed Concept Plan fails to satisfy Village development goals and requirements.
 4. **EFFECT OF VILLAGE BOARD APPROVAL OF CONCEPT PLAN.** Approval of the concept plan by the Village Board shall not obligate the Village to approve the subsequent preliminary plat or plan, but shall be considered permission to prepare the preliminary plat or plan with detailed plans and specifications for the proposed subdivision or development.
 5. **EXPIRATION.** The approval of the Concept Plan shall be effective for no more than one (1) year from the date of approval unless, upon written request by the Applicant, the Village Board grants an extension of time for an additional one (1) year.
 6. **VILLAGE RECORD.** A certified copy of the resolution approving or disapproving the concept plan shall be filed in the office of the Village Clerk and shall be attached to said Concept Plan.
- B. **CONTENTS OF THE CONCEPT PLAN.** Any person proposing to subdivide or develop any parcel of land shall file with the Development Administrator a Concept Plan in a quantity and form as required by the Development Administrator. The Concept Plan shall include the following:
1. **GENERAL INFORMATION.**
 - a. Name of the proposed subdivision or development.
 - b. A location map showing its location in the Village.
 - c. Acreage and zoning classification of the proposed subdivision and the number of lots.
 - d. The names and addresses of adjoining property owners, and the zoning classifications of adjacent property
 - e. Name, address and telephone number of the owner, subdivider, engineer, and any other contact person.

- f. A north arrow and scale, recommended scale is one inch equal to one hundred feet (1"=100').
2. EXISTING CONDITIONS. The following conditions, if found to exist on the parcel and on all adjacent land within one hundred (100) feet of the boundaries of the subject property, shall be shown on an Existing Conditions Exhibit which shall be a separate drawing from the preliminary plat.
 - a. The location, width and names of all streets within or adjacent the parcel together with easements, public utility and railroad rights-of-way, and other important features such as adjacent lot lines, municipal boundary lines, section lines, corners and monuments.
 - b. The location of all existing structures, showing those that will remain on the parcel after the final plat is recorded.
 - c. Topographic data, including contour lines at vertical intervals of not more than two (2) feet with reference to USGS datum or at a more frequent interval if required by the Development Administrator for land having unusual topography
 - d. The location and direction of all seeps, springs, flowings and wells; lakes, ponds, wetlands and any detention basins showing their normal shorelines, flood limits and lines of inflow and outflow, if any; and, watercourses and the location of all areas subject to flooding, including the flow lines of streams and channels showing their normal shorelines and the one hundred (100) year floodplain and floodway limits certified by either the Illinois State water Survey, the Illinois Department of Transportation, the Army Corps of Engineers, or by the National Flood Insurance Program Maps.
 - e. Natural features such as rock outcroppings, wooded areas, and trees greater than six (6) inches in diameter as measured at breast height.
 - f. The location and size of existing sanitary and storm sewers, water mains, culverts, drain pipes, catch basins, manholes, hydrants within the parcel and in adjacent streets or rights-of-ways, and fire flow information from the proposed source.
 - g. Present uses of the subject property including the location of all existing structures, showing those that will be removed and those that will remain on the subject property after the development is complete.
 - h. The location on and within one hundred (100) feet of the subject property of all property lines, easements of record; the uses, zoning and ownership of all parcels; railroads, bridges, culverts, storm sewers, sanitary sewers, water main, detention/retention facilities, also indicating surface and invert grade elevations of catch basins, manholes, culverts and fire hydrants; existing buildings and their use(s) and their future disposition; buried structures; and, location of significant natural features and areas of likely archaeological significance or habitat for endangered flora and fauna species.
 - i. The location and elevation of any floodplain as shown on the Federal Emergency Management Administration's flood boundary and floodway maps.
 - j. The approximate location of all existing land uses, structures, facilities and wooded areas on the subject property proposed to be retained or demolished on and within one hundred (100) feet of the property
3. PROPOSED DEVELOPMENT AND IMPROVEMENTS.
 - a. Arrangement of proposed lots, parks, and common areas

- b. Proposed location and width of street right-of-way, street pavement, alleys, and their relationship to the existing adjacent street system
- c. Proposed location and size of sanitary sewers, storm sewers, water mains, detention areas and their relationship to existing public utilities

It is advisable that the subdivider contact other agencies, as appropriate, to obtain their requirements that may affect the proposed subdivision. Such agencies include the Illinois Department of Transportation c/o District engineer; McHenry County Highway Department; Water Resource Division (DNR); State of Illinois Environmental Protection Agency; State of Illinois Historic Preservation Agency; State of Illinois Department of Natural Resources; and, local public utility companies.

The concept plan shall contain such information as suggested by the Development Administrator in order to delineate, explain or convey the concept of the subdivision or proposed development.

4.5.7. The Preliminary Subdivision Plat or Development Plan. No person shall subdivide or develop any parcel of land until a preliminary subdivision plat or development plan shall have been reviewed and recommended by the Plan Commission and approved by the Village Board as set forth herein. At the time the Concept Plan is approved the Development Administrator may authorize the simultaneous filing of an application for preliminary and final subdivision subdivision plat or development plan approvals without compliance with separate procedures in particular cases where the nature and scope of the proposed subdivision or development does not require separate review procedures.

A. PROCEDURES FOR REVIEWING THE PRELIMINARY SUBDIVISION PLAT OR DEVELOPMENT PLAN.

- 1. VILLAGE STAFF REVIEW OF PRELIMINARY PLAT/PLAN. Upon receipt of a complete application, the Development Administrator shall distribute copies of the application and supporting documents to such Village staff and consultants as appropriate for review and comment concerning compliance with Village requirements. Within fourteen (14) days of receipt of the complete application, the Development Administrator shall advise the applicant, in writing, that the preliminary plat/plan conforms or fails to conform to the requirements of this Chapter or other provisions of the Municipal Code. If the preliminary plat/plan fails to conform, the Development Administrator shall specify the reasons the preliminary plat/plan fails to satisfy Village development goals and requirements of this Title.
- 2. PLAN COMMISSION REVIEW OF PRELIMINARY PLAT/PLAN. Upon receipt of all the material required under Section 4.5.7(C) for the preliminary plat, the Development Administrator shall circulate the preliminary plat/plan to the Plan Commission. The Plan Commission shall place the matter on its agenda and shall serve notice upon the Applicant of the time and place of its meeting at which said matter will be discussed. The Plan Commission shall forward its written report to the Village Board recommending approval or disapproval of the preliminary plat/plan within sixty (60) days from the date of the filing of a complete application. If the recommendation is to disapprove, the report shall set forth the reasons for its disapproval and specify with particularity the aspects in which the proposed plat/plan or plan fails to satisfy Village development goals and requirements of this Title.
- 3. VILLAGE BOARD REVIEW OF PRELIMINARY PLAT/PLAN. The Village Board, by resolution, shall accept or reject the preliminary plat/plan within thirty (30) days after its next regularly scheduled meeting following the date of action of the Plan Commission. If it rejects the plat/plan, the resolution shall set forth the reasons for its disapproval and specify with particularity the aspects in which the

proposed plat/plan fails to satisfy Village development goals and requirements of this Title.

4. EFFECT OF VILLAGE BOARD APPROVAL OF PRELIMINARY PLAT/PLAN. Approval of the preliminary plat by the Village Board shall not qualify the plat/plan for recording, but shall be considered permission to prepare the final plat/plan with detailed plans and specifications for the proposed subdivision or development.
 5. EXPIRATION. Such preliminary approval shall be effective for no more than one (1) year from the date of approval unless, upon written request by the Applicant, the Village Board grants an extension of time for any additional one (1) year.
 6. VILLAGE RECORD. A certified copy of the resolution approving or disapproving the preliminary plat/plan shall be filed in the office of the Village Clerk and shall be attached to said preliminary plat/plan.
- B. STANDARDS FOR REVIEW OF PRELIMINARY SUBDIVISION PLAT OR DEVELOPMENT PLAN. The Plan Commission shall recommend approval and the Village Board shall approve a preliminary plat/plan of subdivision unless it makes written findings specifying the manner in which:
1. The design and layout of the subdivision does not conform to the provisions of this Title.
 2. The Applicant has not made adequate provision to install improvements required by the Plan Commission or Village Board under authority of this Title.
 3. The preliminary subdivision plat or development plan fails to comply with an approved Concept Plan.
 4. The plat does not conform with the Comprehensive Plan, the Official Map, this Title, Village ordinances, or established planning and development policies of the Village.
- C. CONTENTS OF PRELIMINARY SUBDIVISION PLAT OR DEVELOPMENT PLAN. Any person proposing to subdivide any parcel of land shall file with the Development Administrator a preliminary plat in a quantity and form as required by the Development Administrator. The preliminary plat or development plan shall include the following:
1. GENERAL INFORMATION. The following general information, where applicable, shall be shown on the preliminary plat or development plan.
 - a. The name of the proposed subdivision and shall include the words “(Subdivider’s Name)’s Addition to Richmond” in the name and shall not duplicate or resemble the name of any existing subdivision within the Village or the Township in which the subject property is located.
 - b. Date of preparation, north arrow, and graphic scale of drawing which shall be no less than 1 inch = 200 feet for areas over one hundred (100) acres and 1 inch = 100 feet for areas under one hundred (100) acres.
 - c. An identification clearly stating that the map is a preliminary subdivision plat or development plan.
 - d. Legal description of the parcel.
 - e. The name and address of the record owner, the Applicant, the surveyor, licensed professional engineer, land planner, or architect who prepared the plat or development plan.
 - f. A vicinity map showing the general location of the parcel within the Village and environs.
 - g. Completed application form signed by the owner of the land to be subdivided or developed and the required application fees.
 - h. The name and address of the owners of record of all adjacent parcels.

- i. A Table of Subdivision Data indicating the number of lots; the total acreage of the property stated in hundredths (0.01) of an acre; the acreage of any public open spaces; the acreage of all right-of-way; the minimum lot size stated in square feet; the average lot size; and, the existing and proposed zoning.
2. EXISTING CONDITIONS. The following conditions, if found to exist on the parcel and on all adjacent land within one hundred (100) feet of the boundaries of the subject property, shall be shown on an Existing Conditions Exhibit which shall be a separate drawing from the preliminary plat.
 - a. The location, width and names of all streets within or adjacent the parcel together with easements, public utility and railroad rights-of-way, and other important features such as adjacent lot lines, municipal boundary lines, section lines, corners and monuments.
 - b. The location of all existing structures, showing those that will remain on the parcel after the final plat is recorded.
 - c. Topographic data, including contour lines at vertical intervals of not more than two (2) feet with reference to USGS datum or at a more frequent interval if required by the Development Administrator for land having unusual topography
 - d. The location and direction of all rivers, seeps, springs, flowings and wells; lakes, ponds, wetlands and any detention basins showing their normal shorelines, flood limits and lines of inflow and outflow, if any; and, watercourses and the location of all areas subject to flooding, including the flow lines of rivers, streams and channels showing their normal shorelines and the 100-year floodplain and floodway limits certified by either the Illinois State Water Survey, the Illinois Department of Transportation, the Army Corps of Engineers, or by the National Flood Insurance Rate Program.
 - e. Natural features such as rock outcroppings, wooded areas, and trees greater than six (6) inches in diameter as measured at breast height.
 - f. A map showing the location, size, material, and condition of all agriculture drain tile and laterals on the property. To determine this, an investigation shall be conducted making rational assumptions as to where tiles are typically located based on the topography of the site. A slit trench by backhoe or tractor shall be a minimum of three (3) feet wide, five (5) feet deep and six (6) feet in length. To fully map field tile locations, slit trench excavation and field staking should occur at a minimum one hundred (100) foot intervals with confirmation of the route between each interval through the use of additional slit trench, hand probes, or electronic location devices.
 - g. The location and size of existing sanitary and storm sewers, water mains, culverts, drain pipes, catch basins, manholes, hydrants within the parcel and in adjacent streets or rights-of-ways, and fire flow information from the proposed source.
 - h. Zoning classifications of the subject property and of adjacent lands.
 - i. Present uses of the subject property including the location of all existing structures, indicating which structures will be removed and which will remain on the subject property after the development is complete.
 - j. The location on and within one hundred (100) feet of the subject property of all property lines, easements of record; the uses, zoning and

- ownership of all parcels; railroads, bridges, culverts, storm sewers, sanitary sewers, water main, detention/retention facilities, also indicating surface and invert grade elevations of catch basins, manholes, culverts and fire hydrants; existing buildings and their use(s) and foundation elevations and their future disposition; buried structures; and, location of significant natural features and areas of likely archaeological significance or habitat for endangered flora and fauna species.
- k. The location and elevation of any floodplain as shown on the Federal Emergency Management Administration's flood boundary and floodway maps.
 - l. A copy of the wetland delineation report.
 - m. The locations of existing monuments or survey markers on or adjacent the subject property.
 - n. The location and description of all other existing improvements, including, but not limited to, culverts, towers, poles, and other above ground and underground utilities.
3. PROPOSED IMPROVEMENTS. The following improvements, if proposed or required, shall be shown on the plat or in supporting documents:
- a. The location, dimension and names of all proposed street and alley right-of-ways. The preliminary plat or development plan shall show the relationship between existing and proposed streets.
 - b. Lots showing approximate dimensions, minimum lot sizes and proposed lot numbers.
 - c. Sites to be dedicated for school, park, playground or other public purposes, together with appropriate acreage of each.
 - d. Proposed building setback lines with dimensions.
 - e. If the proposed subdivision will be constructed in phases, the limits and location of proposed units shall be shown.
 - f. The location, dimensions and area (in square feet) of all proposed lots.
 - g. Lot and block numbers clearly shown.
 - h. The location, dimension and purpose of all proposed easements.
4. SUPPORTING DATA. The following supporting data shall be submitted in separate statements and/or maps accompanying the preliminary plat/plan, or, if practical, such data may be shown on the preliminary plat/plan.
- a. Proof of ownership of the parcel and Applicant's interest therein. Include names of all parties with beneficial interest in trusts and options to purchase.
 - b. Existing or proposed annexation agreements which pertain to the parcel.
 - c. A list of all lot sizes.
 - d. Text of proposed covenants and conditions restricting or controlling use of the subject property.
 - e. A copy of the Natural Resources Opinion Report from the McHenry and/or McHenry County Soil and Water Conservation District.
 - f. A copy of the Illinois Department of Natural Resources' Endangered Species Consultation application.

- g. A comprehensive drainage plan with analysis of the impact that the development creates on the site and on the surrounding area.
 - h. Proposed agreements, by-laws, provisions or covenant which govern the use, maintenance and continued protection of the subdivision and any of its planned open spaces or other facilities as may be required.
 - i. Traffic impact study if required by the Village Board after receiving a recommendation from the Village Engineer.
 - j. The results of any tests made to ascertain subsurface rock and soil conditions and characteristics, and the seasonal water table.
 - k. An executed copy of the Preliminary Plat/Plan Checklist indicating all of the items provided on the preliminary plat or in the supporting documents submitted.
5. PRELIMINARY ENGINEERING REPORT. A Preliminary Engineering Report shall be submitted along with the Preliminary Subdivision Plat or Development Plan to provide supplemental engineering data regarding factors that will affect the final design of the subdivision or development. The Preliminary Engineering Report may be a separate drawing showing. Items to be addressed specifically in the Preliminary Engineering Report include.
- a. A comprehensive storm water management plan for the land to be subdivided, including the general alignments of the proposed storm sewer system, points of connection of existing storm sewer systems, detention (or retention), stage/storage relationship of the discharge structure to identify the varying release rates due to inlet and outlet control, off-site areas of contribution, points at which off-site flows will be intercepted, and all the necessary maps, computations and field data supporting the engineer's storm water management plan. The proposed storm water management plan shall identify an overland flow route to accommodate flows in excess of storm sewer design level.
 - b. The location, normal and high water elevations, and outflow of proposed storm water management facilities.
 - c. Proposed site grading, and a statement that the subdivider or developer will provide such temporary facilities during construction as are necessary or required to prevent soil erosion or the siltation of watercourses, and that adequate measures will be taken during construction for dust control. The subdivider or developer shall also agree to clean and restore streams, ditches or watercourses of any kind if protective measures prove inadequate.
 - d. Location and description of all existing and proposed sanitary and storm sewers, water mains, wells, lift stations, and culverts along with an appropriate schedule of calculations supporting the quantity of flow, sewer sizing and grades, as well as population equivalent for the subdivision in its developed state.
 - e. The location, size and inverts of all existing and proposed storm sewers, bridges, culverts, drain tiles, drainage ways, ditches, creeks or rivers on the site, or within one hundred (100) feet of the site.
 - f. The location and size of existing and proposed water main to be installed within the proposed subdivision, along with general hydrant and valve spacing.
 - g. When a lift station is required, supporting documentation regarding its size (gpm), pumping heads, (TDH), force main size, general description

of the control system, description of the alternate power source, and the location and accessibility of the station.

- h. The structural design (thickness and material types) to be used for the construction of the road way system, projected traffic volumes, soils data and IBR values shall be submitted to support the roadway design including widths, crown, thickness, type of curb and gutter. This information and data can be represented by a typical section for each street type to be constructed.
 - i. The size, dimensions and location of miscellaneous items such as parkway trees, street lights, sidewalks, bike paths and driveway approaches shall be identified in the report and shown in typical section and/or typical plan view drawings.
6. The applicant shall submit copies of each plat, plan, map and supporting document required by this section in a number prescribed by the Development Administrator. All drawings, plans and reports submitted to the Village shall be folded to approximately nine (9) inches by twelve (12) inches.

4.5.8. Engineering Approval. Before submitting the final plat/plan for review, the Applicant shall submit engineering plans, details and specifications, and an estimate of cost for all proposed improvements regulated by Chapter 6 hereof for approval of the Village Engineer.

- A. Upon the approval of preliminary plat/plan, the Applicant shall have prepared and certified by a licensed professional engineer, construction plans, details, calculations, specifications and quantities of materials (the “engineering drawings”) for said improvements which shall be submitted in a form and in a number of copies as required by the Village Engineer.
- B. The Village Engineer shall review all engineering drawings in order to determine whether such drawings are consistent with the approved preliminary plat/plan and comply with the specifications of this Title and sound engineering practice. Such engineering drawings shall be distributed to such Village staff, consultants and other persons as may be necessary. Within thirty (30) days after receipt of a complete set of the required plans, details or specifications, the Village Engineer shall review said plans, details or specifications and, if they are in compliance with the preliminary plat and this Article, shall forward the same to the Development Administrator with an Advisory Report that they so conform and comply. In the event that the plans, details or specifications do not so conform or comply, the Village Engineer shall notify the Applicant and Development Administrator with an Advisory Report which outlines the specific manner in which they do not so conform or comply. The Advisory Report shall be submitted within the said thirty (30) day period.
- C. The Plan Commission shall not act upon the final plat/plan until the engineering plans have been reviewed by the Village Engineer and an Advisory Report of compliance or non-compliance has been received by the Development Administrator.

4.5.9. The Final Subdivision Plat or Development Plan. No person shall subdivide or develop any parcel of land or Planned Development until a final plat/development plan (the “final plat/plan”) shall have been reviewed by the Plan Commission and reviewed and approved by the Village Board as set forth herein.

- A. PROCEDURES FOR REVIEWING THE FINAL SUBDIVISION PLAT OR DEVELOPMENT PLAN.
 - 1. VILLAGE STAFF REVIEW. Within five (5) business days after receipt of an application, the Development Administrator shall determine the completeness of the application and shall notify the applicant in writing that the application has or has not been accepted for review. If the application is determined to be incomplete the Development Administrator shall include in his written notice the reasons why the application is not complete and how the applicant can make

the application acceptable for submission and distribution. Only upon receipt of a complete application shall the Development Administrator distribute copies of the application and supporting documents to such Village staff, consultants, and outside agencies as deemed appropriate for review and comment concerning compliance with Village development goals and requirements. Within fourteen (14) days of receipt of the complete application, the Development Administrator shall advise the applicant, in writing, that the Final Plat/Plan conforms or fails to conform to the requirements of this Title or the approved preliminary plat/plan. If the final plat/plan fails to conform, the Development Administrator shall specify with particularity the manner in which the final plat/plan or plan fails to satisfy Village development goals and requirements.

2. **PLAN COMMISSION REVIEW.** Upon receipt of the complete final plat/plan, the Development Administrator shall circulate the final plat/plan among various Village departments for their review and comment. The Plan Commission shall place the matter on its agenda and serve notice upon the Applicant of the time and place of its meeting at which said matter will be discussed. The Plan Commission shall forward its written report to the Village Board recommending approval or disapproval, of the final plat/plan. If the recommendation is to disapprove, the report shall set forth the reasons for its disapproval, specifying with particularity the manner in which the proposed plat/plan or plan fails to satisfy Village development goals and requirements.
 3. **ACTION BY THE VILLAGE BOARD.** After receiving the final recommendation of the Plan Commission, the Village Board shall approve or disapprove the final plat/plan within sixty (60) days from the date of the final recommendation by the Plan Commission unless the Applicant and the Village Board agree to extend the sixty (60) day period. If the final plat/plan is disapproved, the resolution shall state the reasons for the disapproval, specifying with particularity the aspects in which the final plat or plan fails to satisfy Village development goals and requirements.
 4. **VILLAGE RECORD.** A certified copy of the resolution approving or disapproving the final plat/plan shall be filed in the office of the Village Clerk attached to said final plat/plan. The final subdivision plat or development plan, together with all covenants and restrictions shall be promptly recorded by the Village Clerk with the McHenry County Recorder's office. A copy thereof, bearing the certificate of the Recorder that the plat/plan has been recorder in his office and that the copy is a true and correct copy of the plat/plan so recorded shall be promptly thereafter filed in the Village Clerk's office. All recording fees shall be paid by the Applicant.
- B. **STANDARDS FOR REVIEW OF A FINAL SUBDIVISION PLAT OR DEVELOPMENT PLAN.** The Plan Commission shall recommend approval and the Village Board shall approve a final plat/plan unless it makes written findings specifying the manner in which:
1. The design and layout of the subdivision does not conform to the provisions of this Title.
 2. The Applicant has not made adequate provision to install improvements required by the Plan Commission or Village Board under authority of this Title.
 3. The final s plat/plan fails to comply with an approved preliminary plat/plan.
 4. The plat/plan does not conform to the Comprehensive Plan, the Official Map, this Chapter, Village ordinances, or established planning policies of the Village.
- C. **CONTENTS OF FINAL PLAT/PLAN.** Within one (1) year after receiving preliminary plat/plan approval by the Village Board, the Applicant shall file with the Development Administrator a final plat/plan in a quantity and form as required by the Development

Administrator. The final plat/plan may include all or only part of the approved preliminary plat/plan. The final plat/plan shall include the following:

1. GENERAL INFORMATION. The following general information, where applicable, shall be shown on the final plat/plan:
 - a. The date of preparation, north point, and a graphic scale. The scale of the drawing shall be no less than 1 inch = 200 feet for areas over one hundred (100) acres and 1 inch = 100 feet for areas under one hundred (100) acres. The final plat/plan shall be drawn with a waterproof, non-fading black ink on mylar or equivalent drafting material no more than twenty-four (24) inches by thirty-six (36) inches in size. When more than one sheet is used for any plat/plan, each sheet must be numbered consecutively. A small scale drawing of the subdivision or development shall be shown on the first sheet, identifying portions of the subdivision according to its respective sheet number. The subdivider/developer shall provide the plat/plan in a digital format acceptable to the Village.
 - b. Legal description of the parcel, the parcel's acreage and property index numbers. The legal description should note that the parcel is in Richmond, Illinois.
 - c. The name and address of the Illinois registered surveyor who prepared the plat with his seal affixed.
 - d. Reference points of existing surveys identified and/or related to the plat by distances and bearing, and reference to a field book or map as follows:
 1. All stakes, monuments or other evidence found on the ground and used to determine the boundaries of the parcel.
 2. Adjoining corners of all adjoining parcels.
 3. When the Village has established the centerline of the street adjacent or within the proposed parcel, the location of such centerline and monument found or reset shall be shown.
 4. All other monuments found or established in making the survey of the parcel or required to be installed by the provisions of this Chapter or by an Act revising the law of plats, adopted March 21, 1874, as amended, Illinois Revised Statutes Chapter 109.
 5. All property corners will be staked. A minimum of two major corners of the subdivision shall be monumented with stone or concrete markers.
 - e. Lot and block lines with dimensions, bearings or deflection angles, and radii, arcs, points of curvature and tangent bearings. Sufficient geometrical data shall be given for all lots to enable retracement and restoration of all corner positions in the field.
 - f. All distances shall be shown to the nearest hundredth (0.01) foot. No ditto marks shall be used. Angles shall be expressed in degrees, minutes and seconds.
 - g. The width of the portion of any streets being dedicated and the width of any existing rights-of-way, all shown each side of the centerline.
 - h. All curve data shall consist of radius, degree of curve, tangent length, and central angle.

- i. All easements shall be denoted by fine dotted lines, clearly identified, and if already of record, the recorder's references to such easement. The width of the easement, its length and bearing, and sufficient ties to locate it definitely with respect to the plat must be shown. If an easement is not precisely located of record, a description of such easement shall be included. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificate for identification.
- j. Lot and block numbers beginning with the number one, and numbered consecutively.
- k. Accurate outlines and legal descriptions of any areas to be dedicated or reserved for public use, with the purpose indicated thereon, and of any area to be reserved by deed covenant for common use of all property owners.
- l. The name of each street shown on the plat.
- m. The name of the subdivision.
- n. Grantees of all lands dedicated for public use, except roads, shall be clearly noted.
- o. Abutting highway and road right-of-way lines and adjacent subdivisions shall be shown in their proper location.
- p. If the subdivision borders on a lake or stream, the distances and directions of a meander line established not less than twenty (20) feet back from the average high water mark of the lake or stream, as determined from flood hazard maps or other data, with said distances noted.
- q. All restrictions which will run with the land and covenants, or references to covenants where declared separately.

r. The following certificates. All signatures shall be no more than ninety (90) days old.

1. SURVEYOR’S CERTIFICATE.

This is to certify that I, _____,
an Illinois Professional Land Surveyor, have surveyed,
subdivided and platted for the owners thereof the following
described property:

(Legal Description)

. . . containing _____._____ acres more or less.

I further certify that iron stakes have been set at all lot corners,
points of curvature and tangency, except where concrete
monuments are indicated, and that the plat hereon drawn
correctly represents said survey and subdivision. All
dimensions are given in feet and decimal parts thereof.

I further certify that the foregoing property falls within the
corporate limits of the Village of Richmond, and I further
certify that no part of said property is situated within a flood
hazard area, as per National Flood Insurance Program, Flood
Insurance Rate Map, Community Panel Number _____,
effective date _____.

Dated at _____, Illinois, this ____ day of
_____, 20__.

(SURVEYOR COMPANY NAME)

ILLINOIS LAND SURVEYOR NO. _____

2. OWNER’S CERTIFICATE.

STATE OF ILLINOIS)
) SS
COUNTY OF MCHENRY)

This is to certify that _____ is the owner of the land described in the foregoing Surveyor’s Certificate and has caused the same to be surveyed, subdivided and platted as shown on the annexed plat for the uses and purposes therein set forth as allowed and provided by statute, the subdivision to be known as “ _____,” Village of Richmond, McHenry County, Illinois and does hereby acknowledge and adopt same under the aforesaid style and title.

Dated this ___ day of _____, 20_____.

BY: _____
OWNER(S)

ATTEST:

3. NOTARY CERTIFICATE.

STATE OF ILLINOIS)
) SS
COUNTY OF MCHENRY)

I, _____, a notary public in and for the aforesaid State and County do hereby certify that _____, personally known to me to be the same person(s), whose name(s) is(are) subscribed to the foregoing certificate as such owner(s), appeared before me this day in person and acknowledged the execution of the annexed plat and accompanying instruments for the uses and purposes therein set forth as his(their) own free and voluntary act.

Given under my hand and Notarial Seal this ___ day of _____, 20_____.

NOTARY PUBLIC

4. COUNTY CLERK CERTIFICATE.

STATE OF ILLINOIS)
) SS
COUNTY OF MCHENRY)

I, _____, County Clerk of McHenry County, Illinois, do hereby certify that there are no delinquent general taxes, no unpaid current taxes or special assessments, no unpaid forfeited taxes, and no redeemable tax sales against any of the land included in this plat. I further certify that I have received all statutory fees in connection with the plat.

Given under my name and seal of the county Clerk at Sycamore, Illinois, this ____ day of _____, 20 ____.

COUNTY CLERK

5. RECORDER CERTIFICATE.

STATE OF ILLINOIS)
) SS
COUNTY OF MCHENRY)

This instrument No. _____, was filed for record in the Recorder’s Office of McHenry County, Illinois, on the ____ day of _____, 20 ____, at _____ o’clock __ .m.

COUNTY RECORDER

6. VILLAGE BOARD CERTIFICATE.

STATE OF ILLINOIS)
) SS
COUNTY OF MCHENRY)

Plat approved by the Village Board of the Village of Richmond this ____ day of _____ A.D. 20 ____.

BY: _____
PRESIDENT

ATTEST:

VILLAGE CLERK

- 9. COUNTY HIGHWAY CERTIFICATE. Required when subdivision is adjacent a County highway.

STATE OF ILLINOIS)
) SS
COUNTY OF MCHENRY)

This plat has been approved by the McHenry County Highway Department with respect to access to County Highway No. ____ , also known as (Street Name) , pursuant to Illinois Revised State Statutes, Chapter 109, Paragraph 2; however, a highway permit for access is required of the owner of the property prior to construction within the County right-of-way.

Dated this ____ day of ____ . 20 ____.

BY: _____
COUNTY ENGINEER

- 10. ILLINOIS DEPARTMENT OF TRANSPORTATION CERTIFICATE. Required for subdivisions adjacent a State highway.

STATE OF ILLINOIS)
) SS
COUNTY OF MCHENRY)

Approved this ____ day of ____ 20 ____ , as to roadway access to State Highway No. ____ also known as _____.

BY: _____
DISTRICT ENGINEER
ILLINOIS DEPARTMENT OF TRANSPORTATION

- 11. VILLAGE UTILITY EASEMENTS

A perpetual easement appurtenant is hereby granted to the Village of Richmond, McHenry County, Illinois, its successors and assigns, over, upon, across, through and under those portions of the above described real estate designated Public Utility Easement on this plat for the purpose of installing, laying, constructing, operating, maintaining, repairing, renewing, and replacing water mains, and sanitary sewer lines, storm sewer lines, street light cable, and any other Village utilities, together with all appurtenant structures, including, but not limited to, manholes, wet wells, lift stations, fire hydrants, valve vaults, and any and all other fixtures and equipment required for the purpose of serving the above described real estate with water service, sanitary sewer service, storm water collection, street lighting, and other municipal services and for the purpose of providing ingress and egress from the property shown hereon for emergency vehicles of any and all types whatsoever. In no event shall any permanent building be placed upon said easement areas, but they may be used for gardens, shrubs, landscaping and such other purposes that do not, and will not in the future, interfere unreasonably with easement rights herein granted to the Village of Richmond.

12. DRAINAGE EASEMENTS

A permanent non-exclusive easement is hereby reserved for and granted to the Village of Richmond (hereinafter “the Grantee”), and to its successors and assigns in, upon, across, over, under and through the areas shown by dashed lines and labeled “Drainage Easement” on this plat of subdivision, or where otherwise noted in the above legend for the purpose of installing, constructing, inspecting, operating, replacing, renewing, altering, enlarging, removing, repairing, cleaning, and maintaining storm sewers, drainage ways, storm water detention and retention facilities, subsurface drainage systems and appurtenances, and any and all manholes, pipes, connections, catch basins, and without limitations, such other installations as the Grantee may deem necessary, together with the right of access across the real estate platted hereon for the necessary personnel and equipment to do any or all of the above work.

In furtherance of the foregoing affirmative rights, the following covenants shall run with said land in perpetuity:

- No permanent buildings shall be placed on said drainage easements;
- No trees or shrubs shall be placed on said drainage easement, but the premises may be used for landscaping, and other purposes that do not then or later interfere with the aforesaid uses and rights;
- There shall be no dredged or fill material placed upon said drainage easement; and,
- Fences shall not be erected upon said drainage easements in any way which will restrict the uses herein granted.

The right is also hereby granted to the Grantee to remove any buildings or structures, to cut down, trim or remove any trees, fences, shrubs or other plants that interfere with the operation of or access to such drainage facilities in, on, upon, across, under or through said drainage easements.

The Grantee shall not be responsible for replacement of any such buildings, structures, improvements, fences, gardens, shrubs or landscaping removed during exercise of the herein given rights. Replacement of items so removed shall be the responsibility of the then lot owner.

Where drainage easements are also used for electric, telephone, cable television, or natural gas distribution systems or components, such other utility installations shall be subject to the prior approval of the Village of Richmond so as not to interfere with the maintenance of gravity flow and stabilization of vegetation ground cover on the above-mentioned drainage facilities.

2. **SUPPORTING DATA.** The following supporting data, where applicable, shall be supplied in separate statements or maps, or, if practical, may be shown on the final plat/plan.
 - a. A note on the plat/plan stating that Village ordinances supersede any private covenants and restrictions.
 - b. A certificate signed and acknowledged by all parties having any interest in the land, dedicating all parcels of land intended for any public use.
 - c. Letter of permission from the surveyor to record said plat or plan.
3. **GUARANTEES.** The Applicant shall provide in a form acceptable to the Village a subdivision improvement guarantee in the manner prescribed in Article 4.7 of this Title

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Article 4.6

Variations and Appeals

4.6.1. Variations

- A. AUTHORIZATION. The Hearing Officer or Plan Commission may recommend and the Village Board may authorize such variations from the terms of this Title as are hereinafter set forth in harmony with their purpose and intent as will not be contrary to the public interest. Variations may be authorized only on the specific instances enumerated in Section 4.6.1(D) and then only when the Hearing Officer or Plan Commission has made findings of fact, based upon the standards set out in Section 4.6.1(E) that owing to special conditions a literal enforcement of the provisions of this Title will, in an individual case, result in practical difficulties or particular hardship for the owner, lessee or occupant of land or a structure.
- B. APPLICATION FOR VARIATION. An application for a variation shall be filed with the Development Administrator who shall forward without delay a copy to the Hearing Officer for variations governed by Section 4.6.1(D)2. The application shall contain the following information as well as such additional information as may be prescribed by rule of the Hearing Officer or Village Board:
1. The particular requirements of this Title which prevent the proposed use or construction;
 2. The characteristics of the subject property which prevent compliance with said requirements of this Title;
 3. The reduction of the minimum requirements of this Title which would be necessary to permit the proposed use or construction; and,
 4. The practical difficulty or particular hardship which would result if said particular requirements of this Title were applied to the subject property.
- C. Hearing and Notice. No variation shall be recommended by the Hearing Officer except after a public hearing of which notification of time and place of hearing shall be provided. The required hearing shall be held within 30 days of receipt by the Development Administrator of the application for variation. The Hearing Officer shall select a reasonable time and place for the hearing, all within the limitations imposed by Section 4.6.1-(E) of this Title. Public notice of such hearing shall be published at least once, but not less than 15 days nor more than 30 days before such hearing, in one or more newspapers published in the [Village](#), or, if no newspaper is published therein, then in one or more newspapers with a general circulation within the Village. Such notice shall contain the date, time and place of the hearing, the [common street address or addresses](#) of [all](#) the property involved, the [property index number \("PIN"\) or numbers of all the parcels of real property contained in the affected area-](#) and a brief description of the relief sought. Written notice shall be mailed to all owners of property abutting or lying across a street, railroad right-of-way, stream or river, or an alley from the property subject to the variation request. Any party of interest may appear and be heard at the hearing in person, by agent, or by attorney. (*Ordinance 2012-03; adopted April 19, 2012*)
- D. AUTHORIZED VARIATIONS.
1. The Village Board may grant variations from the regulations of this Title upon recommendation by the Hearing Officer or the Plan Commission after due notice and hearing as set forth in Section 4.6.1(C) and then only in accordance with the standards set out in Section 4.6.1(E) or Section 4.4.
 2. The Hearing Officer may recommend variations from the regulations of this Title be granted, but only in accordance with the standards set out in Section 4.4.1(E), and may be granted only in the following instances, and in no others:

- a. To vary the applicable lot area, lot width, and lot depth requirements, subject to the following limitations:
 1. The minimum lot width and lot depth requirements shall not be reduced more than twenty-five percent (25%).
 2. The minimum lot area for a single family or two-family dwelling shall not be reduced more than (20%).
 3. The minimum lot area per dwelling unit required for multiple family dwellings shall not be reduced so as to permit more dwelling units than would be permitted by strict application of minimum lot area requirements.
 - b. To vary the applicable bulk regulations, including maximum height, lot coverage, building coverage and minimum yard requirements in Section 6.2.2, and lots standards, building placement standards and vertical standards in Section 6.5.1(A) and Section 6.5.1(B).
 - c. To vary the applicable off-street parking and off-street loading requirements contained in Article 6.7 of this Title, except those in Section 6.7.5, Schedule of Required Parking.
 - d. To vary the regulations relating to restoration of damaged or destroyed non-conforming structures contained in Article 3 of this Title.
 - e. To vary the regulations relating to signs contained in Article 6.8.
3. The Plan Commission may recommend variations from the requirements of this Title be granted but only in accordance with the standards set forth in Article 4.4.

E. STANDARDS FOR VARIATIONS

1. The regulations of this Title shall not be varied unless the Hearing Officer shall make findings of fact based upon the evidence as presented that:
 - a. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations of the district in which it is located.
 - b. The proposed variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship which will result if the strict letter of the regulations were carried out and which is not generally applicable to property within the same district.
 - c. The alleged hardship has not been directly created by any person presently having a proprietary interest in the premises.
 - d. The proposed variation will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood.
 - e. The proposed variation will not impair an adequate supply of light and air to adjacent property, substantially increase congestion in the public streets, increase the danger of fire, or endanger the public safety.
 - f. The proposed variation will not alter the essential character of the locality.
 - g. The proposed variation is in harmony with the spirit and intent of this Title.
 - h. The existence of any non-conformity anywhere in the Village shall not itself be considered grounds for granting a variation for other property.

2. **CONDITIONS.** The Hearing Officer, Plan Commission or the Village Board may impose such conditions and restrictions upon the location, construction, design and use of the property benefited by a variation as may be necessary or appropriate to comply with the foregoing standards and to protect adjacent property and property values.
- F. **FINDINGS OF FACT.** No variations shall be recommended or granted unless said variation is granted by means of a conclusion or statement of relief granted, supported by findings of fact, which statement and findings shall be transmitted to the applicant not less than thirty-five (35) days from the date for the decision thereon.
1. The findings of fact shall specify the reason or reasons for making the variation, and shall refer to any exhibits containing plans and specifications for the proposed variation which have been made a part of the application or which were introduced at the public hearing as evidence. Such exhibits shall remain part of the permanent record of the Hearing Officer.
 2. The terms of relief granted shall be specifically set forth in conclusions or statements separate from the findings of fact.
- G. **DECISIONS FOR VARIATIONS.** The Hearing Officer shall consider the variation request and shall recommend whether the variation should be granted. The Hearing Officer shall transmit his findings of fact and recommendation to the Village Board within the time limitations established in Section 4.6.1(F), hereof. However, the Hearing Officer upon his own motion, or the applicant upon his own motion, may each extend the period of time provided for in the said Section 4.6.1(F) for a period not to exceed thirty (30) days per extension.
- H. **ACTION BY THE VILLAGE BOARD.** Within thirty (30) days of receipt of the Hearing Officer recommendation, the Village Board shall approve, approve with modifications, or disapprove the variation request unless the period of time specified by Section 4.6.1(F) has been extended by the Hearing Officer.
- I. **NOTICE OF DECISION.** All final orders, requirements, and decisions of the Village Board shall be in the form of an ordinance. A copy of the ordinance approving the variation shall be transmitted by the Village Clerk to the applicant within five (5) business days of the Village Board's final action.
- J. **PERIOD OF VALIDITY.** No decision granting a variation shall be valid for a period longer than six (6) months from the date of such decision unless:
1. An application for a zoning certificate is obtained within such period and construction, reconstruction, moving and remodeling is started, or
 2. An occupancy certificate is obtained and a use is commenced.

The Village Board may grant additional extensions of time not exceeding one-hundred eighty (180) days each, upon written application made within the initial six (6) month period without further notice or hearing, but said right to so extent said time shall not include the right to grant additional relief by expanding the scope of the variation. Nothing in this Section shall limit or affect the validity of a variation granted under the terms of this Section 4.6.1 if the relief sought and obtained herein does not require the issuance of a zoning or occupancy certificate or the commencement of use, construction, reconstruction, moving or remodeling.

4.6.2. Appeals. An appeal to the Hearing Officer may be made by any person, firm, or corporation, or by any office, department, board, bureau aggrieved by a decision of the Development Administrator under this Title in accordance with Illinois Compiled Statutes and the following:

- A. **APPLICATION.** An application for an appeal shall be filed with the Development Administrator within five (5) days of the date of the action from which the appeal is being filed, and thereafter the Development Administrator shall forward such application to the Hearing Officer for processing. The Development Administrator shall forthwith

transmit to the Hearing Officer all the papers, plans and correspondence constituting the record upon which the action appealed from was taken.

- B. EFFECT OF APPLICATION FOR APPEAL. The appeal stays all the proceedings in furtherance of the action appealed from, unless the Development Administrator certifies to the Hearing Officer after the notice of appeal has been filed with the Hearing Officer, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Hearing Officer or by a court of record on application, on notice to the Development Administrator and on due cause shown.
- C. HEARING AND NOTICE. The Hearing Officer shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and decide the same within a reasonable time. Said hearing shall be held within thirty (30) days of receipt by the Development Administrator of the application for appeal. Any party of interest may appear and be heard at the hearing in person by agent, or by attorney.
- D. DECISIONS. The Hearing Officer may affirm or may reverse wholly or in part, or may modify the order, requirement, decision, or determination as in his opinion ought to be done or made on the premises, and to that end shall have all of the powers of the office from which the appeal was taken.

Article 4.7

Public Improvement Guarantees and Acceptance Procedures

- 4.7.1. Purpose and Intent.** In order to guarantee the completion of public improvements, including parks and common areas, and the performance of all other obligations required by these regulations, no final plat of subdivision or final development plan shall be approved, no plat of subdivision shall be recorded, and no installation or construction of such improvements shall commence until the requirements of this Article 4.7 have been satisfactorily provided. The requirements of this Article 4.7 shall also apply to construction of public improvements within the Village's one and one-half (1½) mile extraterritorial jurisdiction unless the Village obtains written evidence from the developer that the developer has provided the other applicable governmental unit with security equivalent to that required under this section for the completion of such improvements.
- 4.7.2. Guarantee Amount.** The amount of the performance guarantee shall cover all construction costs for public improvements and all costs for performing the obligations for which this Part requires financial security. The guarantee shall be in the amounts of one hundred fifty-percent (150%) of the estimated construction cost of all public improvements and one hundred fifty-percent (150%) of the performance of all other obligations which may be secured to be approved by the Village Engineer unless the developer or subdivider can show that certain costs have already been paid or construction has been satisfactorily completed. Estimates of cost for public improvements shall be provided by the subdivider's or developer's engineer. Public improvement guarantees shall be submitted to the Village Clerk.
- 4.7.3. Security Methods.** One of the following security methods shall be utilized to guarantee the completion of public improvements and the performance of all other obligations for which financial security is required by this Part:
- A. LETTER OF CREDIT
1. FORM: The developer or subdivider shall file an irrevocable letter of credit issued by any financial institution approved by the Village Attorney, in accordance with guidelines established by the Village Board. The irrevocable letter of credit shall be in substantially and substantively the same written form as the sample irrevocable letter of credit provided in Appendix A.
 2. TERMS: The letter of credit shall be in an amount sufficient to pay for the cost of one hundred and one hundred fifty-percent (150%) construction of all public improvements, landscaping for single family and multiple family residential development and all non-residential development, and all other obligations for which the developer or subdivider is required to provide financial pursuant to these regulations, any annexation agreement or any performance guarantee agreement. The letter of credit shall provide that the issuing bank or financial institution shall honor Village drafts for such amounts as may be required to complete the improvements and perform the relevant obligations according to the approved specifications and these regulations. The letter of credit should provide that its amount will be reduced from time to time as payments for improvements approved by the Village Engineer are made, but at no time shall the available balance be less than ten percent (10%) of the total original principal balance plus the estimated cost to complete the required public or private improvements and to perform any other obligations for which the developer or subdivider is required to provide financial security pursuant to these regulations, any annexation agreement, or any performance guarantee agreement.
 3. TIME LIMIT: The letter of credit shall be irrevocable for at least twelve (12) months and shall have an expiration date of not less than ninety (90) days after

the date of completion specified for the improvements or other obligations guaranteed thereby. The letter of credit shall automatically be renewed for additional periods of one (1) year unless the bank or issuing financial institution notifies the Village Clerk ninety (90) days prior to the expiration date that it does not intend to renew.

- B. **OTHER METHODS.** The Village Board may from time to time consider the use of other security methods, and shall amend these regulations to approve any such other method that it finds to provide substantially equivalent security for the completion of public improvements and performance of other obligations for which financial security is required.

4.7.4. Insufficient Fund Balance. If, at any time before the construction of all required improvements and the completion of performance of all other obligations for which financial security is required under these regulations, any annexation agreement or performance guarantee agreement has been completed, the balance of funds remaining not disbursed under any irrevocable letter of credit or other guarantee provided in accordance with this section is not sufficient, in the sole judgment of the Village Engineer, to cover the costs of construction of said improvements and the performance of said obligations or if by reason of any order, decree or write of any court, or for any other reason, the said non-disbursed balance of funds shall be withheld, diminished or otherwise unavailable for the purposes provided herein, the developer or subdivider agrees to cause the balance to be increased to such amount as shall be required by the Village for such purpose, in the exercise of its judgment, or shall provide such other and further irrevocable letter of credit or guarantee of performance as may be required by the Village to cover said insufficiency.

4.7.5. Time Limit. All performance guarantees shall provide that if the required improvements are not installed within one (1) year of approval of the final plat of subdivision or development plan, or a period of time otherwise specified in an applicable agreement between the Village and developer or subdivider, the Village may deem the developer or subdivider to be in default, and may proceed in accordance with Section 4.7.6.

4.7.6. Default. In the event the Village Engineer determines, in the sole exercise of his judgment, that the developer or subdivider has failed to install proposed improvements in accordance with the approved plans and specifications, or has failed to perform the other obligations secured hereunder, the Village Board may take the following action: Advise the developer or subdivider in writing of the failure to install improvements, and give the developer or subdivider thirty (30) days to cure such failure. If the developer or subdivider fails to cure said failure, the Village may, at its option, declare the developer or subdivider in default, and all monies necessary to cure such default may be drawn on by the Village in accordance with the terms of the letter of credit or other security and used to affect such cure.

4.7.7. Procedures for Reducing the Amount of Guarantee.

- A. The developer or subdivider may from time to time as the public improvements are constructed and the other guaranteed obligations are performed, request a reduction in the amount of guarantee furnished, whether a letter of credit, or other security method approved under these regulations. The developer or subdivider shall make said request to the Village Engineer by filing following documents:

1. A request for reduction certified by the project engineer indicating the work has been completed in substantial compliance with the approved plans and specifications and the specified amount of the reduction;
2. A new or substitute letter of credit or other security method for the reduced amount, once annually if required (to be filed within seven (7) days after the approval of the reduction);
3. An estimate of the Village Engineer containing the following information:
 - a. The estimated cost to complete the construction of the public improvements not then completed; and,

- b. The estimated cost to complete the performance of all other obligations secured by the letter of credit or other security filed with the Village.
 - 4. Evidence acceptable to the Village Attorney that the cost of the public improvements constructed to the date of the requested reduction is either paid or otherwise adequately provided for.
- B. The Village Engineer and Village Attorney shall review the above documents. The Village shall either recommend approval or denial of said request. No reduction in the guarantee furnished shall be recommended or granted which would reduce said guarantee below a sum which equals the total of the estimated cost of the public improvements then remaining uncompleted less sidewalks on buildable lots, plus ten-percent (10%) of the original principal balance of the letter of credit or other guarantee provided. The Village Engineer shall then present the request for reduction to the Village Board together with the recommendation of the Village Engineer with respect thereto for its review and approval.
- C. In the event the reduction in amount of guarantee is approved by the Village, such approval shall not become effective unless a new or substitute letter of credit is received by the Village. Until then, the original letter of credit or other guarantee provided to the Village remains in effect, modified in amount to reflect the amount of the reduction approved by the Village.

4.7.8. Inspection and Certification of Improvements.

- A. GENERAL. Unless otherwise specifically provided, inspection of the construction of the improvements shall be by the Village Engineer, and shall be paid for by the developer or subdivider. No public improvements shall be constructed, and therefore no improvements shall be inspected, prior to the approval of the final plat of subdivision or final development plan.
- B. CERTIFICATION. Upon completion of all required construction, the developer's or subdivider's engineer shall certify that the public improvements comply in all respects with the plans and specifications approved by the Village Board. All work shall at all times be subject to inspection by the Village Engineer, other Village officials, and their representatives. Regardless of contracts, agreements, or inspections performed, the final responsibility for the construction of all public improvements in accordance with the applicable standards rests with the developer or subdivider. A recommendation by the Village Engineer shall not constitute a waiver by the Village of the right to draw funds under the security provided herein on account of defects in or failure of any public improvements that is detected or which occurs following such certification.
- C. NOTICE OF DEFECTS. The Village Engineer shall provide timely notice to the developer or subdivider whenever inspection reveals that a public improvement does not conform to the standards and specifications required by these regulations. The developer or subdivider shall have thirty (30) days from the issuance of such notice to cure or to substantially cure such defect.
- D. INSPECTION FEE. The plans and specifications for all public and private improvements that shall be made under the provisions of these regulations shall be submitted to the Village Engineer for the Village for inspection and review. The Village Engineer shall inspect all public and private improvements located within the Village's corporate limits that are guaranteed under the provisions of this Ordinance during the course of construction. An inspection fee equal to three-percent (3%) of the total cost of all public improvements shall be applied to all subdivisions and developments subject to the requirements of this Ordinance.

4.7.9. Post-Completion Guarantee.

- A. GENERAL. The developer or subdivider shall guarantee the public improvements against defects in materials and workmanship for a period of two (2) years from the date of acceptance of public improvements by the Village. The developer or subdivider agrees to repair or replace any of said public improvements, including landscaping, which, during said two (2) year period after acceptance, shall become damaged or deficient due to defective materials or workmanship.
- B. DAMAGE AND NUISANCE. The developer or subdivider shall also guarantee the repair of any damages and the abatement of any nuisances created by the developer or subdivider, or the successors or assigns thereof, including but not limited to the repair or replacement of landscaping, streets, curbs, sidewalks, tree banks, water facilities, sanitary sewer facilities, culverts, catch basins or other storm sewer facilities, which are damaged or adversely affected by development or construction, and the clean-up and removal of debris and discarded or abandoned materials resulting from any construction or development related activities.
- C. AMOUNT OF GUARANTEE. The developer or subdivider shall post with the Village an irrevocable letter of credit conforming substantially to the sample form included in Appendix A of this Part or such other form of guarantee as may be permitted under these regulations in an amount equal to ten-percent (10%) of the final construction cost of the public improvements for the development or subdivision.
- D. DURATION AND RELEASE OF GUARANTEE.
 - 1. The guarantee posted with the Village by the developer or subdivider pursuant to Section 4.7.9(B) shall remain in full force and effect for at least two (2) years from the date of the Village's acceptance of the public improvements, provided, however, that if the developer or subdivider, or the successors or assigns thereof, are still engaged in construction or development activity within the developer or subdivision, then the developer or subdivider shall cause the letter of credit or other guarantee to be renewed for successive periods of not less than one (1) year until all such activity ceases.
 - 2. Not more than forty-five (45) days after that date which is two (2) years from the date of the Village's acceptance of the public improvements for which a guarantee has been posted under this Section 4.7.9, the Village shall take such actions as may be necessary to release or reduce the original principal amount of said guarantee by an amount equal to one-half (½) of said guarantee, less any amounts drawn from such guarantee by the Village to repair, replace or remedy any defective materials or workmanship in the public improvements in question.
 - 3. Not more than forty-five (45) days after the Village Clerk and Village Engineer receive written notice by registered mail, return receipt requested, or nationally recognized overnight carrier service that all construction or development activity within the development has ceased, the Village shall take such actions as may be necessary to release or reduce the original principal amount of said security by an amount equal to one-half (½) of said guarantee, less any amounts drawn from such guarantee by the Village to repair any damage to public improvements or to abate any nuisance in the development or subdivision caused by such construction and development activity.

4.7.10. Custodian of Guarantees. The Village Clerk shall be the custodian of all public improvement guarantees and shall monitor the expiration dates of guarantees. The Village Clerk shall notify the Village Engineer and Village Board of any guarantees in danger of expiring.

4.7.11. Acceptance of Public Improvements. The approval of a subdivision plat by the Village Board shall not constitute an acceptance by the Village of any public improvements constructed therein. A subdivider or developer shall not make an offer to dedicate public improvements unless Sections 4.8.12(A)1 thru Section 4.8.12(A)6, inclusive, are completed. The Village shall accept

the dedication of any validly certified improvement within sixty (60) days of the developer's offer to dedicate the improvement. The acceptance of improvements shall be made as follows:

4.7.12. Acceptance Procedures

A. COMPLETION OF PUBLIC IMPROVEMENTS

1. All public improvements required under the provisions of this Ordinance to be provided at the subdivider's/developer's expense shall be fully completed by the owner or subdivider/developer, or both, within twelve (12) months after the approval of the final plat and/or site development plan, such completion shall be in accordance with final plans and specifications approved by the Village Engineer prior to the commencement of construction. However, at the discretion of the Village Building Inspector a building permit for any structure to be erected on any lot in the subdivision and/or development may be denied until such time as the subdivider shall have completed such public improvements as are determined by the Village Engineer to be necessary to provide reasonable access, adequate drainage, and proper water and sanitary sewage facilities to serve the lot on which the structure is to be built.
2. All contracts for the construction of any public improvements shall be subject, upon request, to review and approval by the Village Engineer prior to the commencement of construction, and all such contracts shall contain contractor's warranties of material and workmanship in form and substance approved by the Village Engineer. The obligation of the owner or subdivider/developer to provide public improvements shall include, without limitation, the furnishing of all necessary surveys, engineering drawings, working drawings, determinations of grade and location, communications with contractors, review and approval of periodic payment estimates, and all other services customarily performed by a registered professional engineer providing general supervision of such work, and the Village shall have no liability or responsibility for any such services. At all times during the progress of construction of public improvements, the owner or subdivider/developer shall permit the Village Engineer, and their duly authorized representatives, to inspect any portion thereof. If the Village Engineer determines that the improvements or any portion thereof are not being constructed in accordance with the final plans and specifications previously approved by the Village Engineer, the Village Engineer shall have the right, with notice to the owner, to stop the work of any contractor. The work shall not be resumed until the contractor shall receive authorization from the Village Engineer for the resumption of the work.
3. Grading and implementation of measures to control erosion and ponding of water shall be accomplished at the subdivider's/developer's expense in accordance with the Village's standards and specifications, prior to filing with the Village Engineer the certificate of completion required by this Part or the expiration of twelve (12) months from the approval of the final plat, whichever is earlier. The Village Engineer shall prepare or cause to be prepared such minimum specifications for grading, location of earth stockpiles, drainage and erosion control which specifications shall be kept on file with the Village Clerk for public review and inspection.
4. During the construction phases of the subdivision and/or development, and prior to acceptance by the Village of the public improvements, the subdivider/developer shall maintain in good condition and restore all existing public improvements to prevent the material deterioration thereof, and to assure that no imminent hazard to life or property within the subdivision and/or development or the areas adjacent thereto shall exist. In the event that the subdivider/developer fails to properly maintain or restore existing public improvements, as required herein, the Village may, upon ten (10) days prior

written notice to the subdivider/developer, perform or have performed on its behalf any maintenance or restoration work reasonably necessary to assure that material deterioration of existing public improvements will not occur. In the event that it is determined by the Village Engineer or his authorized representative that failure of the subdivider/developer to properly maintain or restore existing public improvements will result in imminent hazard to life or property within the subdivision and/or development or the areas adjacent thereto, the Village may, without prior notice to the subdivider, perform or have performed on its behalf any maintenance or restoration work reasonably necessary to prevent such hazards. Within ten (10) days thereafter, the subdivider/ developer shall be notified in writing by the Village of the performance of such work by the Village, and the cost thereof. In the event that maintenance or restoration work is performed by or on behalf of the Village, the Village may withdraw the security required by this Part in an amount equivalent to the cost of that work.

5. FINAL INSPECTIONS. It is the responsibility of the subdivider or developer to initiate final inspection of public improvements. Upon completion of the public improvements required under the provisions of this Part, the owner or developer/ subdivider shall file with the Village Engineer a certificate, certified by a registered professional engineer licensed to practice engineering in this state, to the effect that all such public improvements have been completed substantially in accordance with the final plans and specifications approved by the Village Engineer. In addition, the owner or developer/ subdivider shall furnish to the Village four (4) copies of complete sets of as-built engineering plans, and two digital copies. The subdivider/developer shall submit all as-built information in a digital format approved by the Village Engineer.
6. If the public improvements as required have been completed within twelve (12) months from the approval of the final plat of subdivision or approval of the development, as the case may be, and the owner/subdivider/developer has filed the certificate and as-built engineering plans required herein, the Village Engineer shall inspect the public improvements. If he determines that the public improvements are in conformance with the as-built engineering plans, other approved plans, agreements and all codes of the Village, the Village Engineer shall forward to the Village Board his recommendation that the public improvements be approved and accepted by the Village Board as satisfactory, together with a statement of any extraordinary costs incurred by the Village in connection with the construction of the public improvements other than the review of the plans, specifications, and normal customary inspections of the work. Within forty-five (45) days following receipt of such recommendation, the Village Board may consider the approval and acceptance of the public improvements, and may authorize the Village Clerk to release or refund to the depositor thereof, security for said public improvements as may be accepted. The Village Board may authorize deductions therefrom of any extraordinary costs incurred by the Village; and further provided that the Village Board shall condition its acceptance of the public improvements upon the owner or subdivider providing the maintenance bond/security required herein.
7. If the owner or subdivider/developer fails to complete all required public improvements, or fails to complete these improvements in conformance with approved plans and specifications within twelve (12) months from the approval of the final plat of subdivision or approval of the development/site plan, as the case may be, the Village Engineer may withdraw all funds provided as security pursuant to Section 3.7 and may utilize those funds to cause the performance of any work necessary to complete the public improvements or to bring them into conformance with approved plans and specifications, codes of the Village. The owner or subdivider/developer shall be obligated to reimburse the Village for

any costs incurred in excess of those funds in order to complete the required public improvements.

B. MAINTENANCE GUARANTEES FOR PUBLIC IMPROVEMENTS

1. The owner or subdivider/developer shall guarantee the public improvements for a period of two (2) years from the date the Village Board accepts those improvements. During this two (2) year period, the owner or subdivider/developer shall be obligated, upon written notice from the Village Engineer as provided herein, to repair or reconstruct any public improvement or portion thereof which may deteriorate, fail due to poor workmanship, or otherwise cease to meet the standards established by the engineer's certificate or as-built plans, provided that ordinary maintenance shall not be obligation of the owner or subdivider/developer.
2. The Village shall provide written notice to the owner or subdivider/developer of deterioration of public improvements, specifying a time period in which the deterioration is to be remedied; and the owner or subdivider/developer shall perform the necessary repair or reconstruction at his own expense within the time specified.
3. In the event that it is determined by the Village Engineer or his/her authorized representative that failure of the owner or subdivider/developer to restore existing public improvements will result in imminent hazard to life or property within the development or subdivision or in areas adjacent thereto, the Village may, without prior notice to the owner or subdivider, perform, or have performed on its behalf, any restoration work reasonably necessary to prevent that hazard. Within ten (10) days thereafter, the owner or subdivider/developer shall be notified in writing by the Village of the performance of that work, and of the cost thereof.
4. To secure the obligations imposed by this section, the owner or subdivider/developer shall provide to the Village a letter of credit, issued by a surety authorized to do business in the state, in an amount equal to one hundred ten-percent (110%) of the Village Engineer's written estimate of the total cost of all public improvements, as provided in Section 3.7. A ten percent (10%) maintenance letter of credit shall be posted with the Village for a period not less than two (2) year after the Village Board's acceptance of the public improvements. The form shall be in accordance with Section 3.07 of this Ordinance.
5. In the event that during the two (2) year guarantee period, the owner or subdivider/ developer shall fail to repair, reconstruct, or otherwise remedy conditions of deterioration of public improvements in the development or subdivision within the time specified in the Village's written notice of those conditions, or shall fail to reimburse the Village of the cost of emergency restoration performed by or on behalf of the Village pursuant to division (C) of this section within thirty (30) days of receiving notice of such cost, the Village may file a claim against the security required by division (D) of this section of performance of the obligation by the surety.

- C. ACCEPTANCE OF STREETS AND IMPROVEMENTS. Final approval of a plat by the Village Board shall not constitute an acceptance of any dedicated streets and improvements for maintenance purposes, irrespective of any act or acts by an officer, agent, or employee of the Village with respect to those streets or improvements. Final acceptance of all streets and improvements for maintenance shall be made only by the adoption of a resolution by the Village Board after there has been filed with the Village Clerk a certificate or letter by the Village Engineer indicating that all improvements required to be constructed or installed in connection with the approval of the final plat of subdivision or development

plan have been fully completed and the construction or installation thereof has been approved by the Village Engineer.

1. VILLAGE ENGINEER'S CERTIFICATE. The Village Engineer shall file with the Village Board a certificate that states that all required improvements have been fully completed, and that said improvements meet the design and operating standards and requirements of the Village and other agencies, including the Illinois Environmental Protection Agency, and the Illinois Department of Transportation.
2. APPROVAL OF VILLAGE ATTORNEY. The Village Attorney shall approve such legal documentation as is necessary in his opinion to protect the interests of the Village, including valid lien waivers from all persons who provided materials or performed work on the improvement for which the certification has been offered. When applicable, the Village Attorney shall require the developer to transfer title of the public improvements to the Village. The Village Attorney shall consider the following documents (where appropriate) for the closing:
 - a. A bill of sale for the personal property to become public property located within the subdivision;
 - b. An assignment to the Village of the subdivider's right's and interests and warranties with respect to said personal property in the subdivision;
 - c. A quit claim deed for all mains, valve boxes, streets, etc. for the public improvements located in the subdivision;
 - d. Universal Commercial Code searches with respect to the public personal property located in the subdivision;
 - e. Judgment searches for the subdivider;
 - f. Federal tax lien searches with respect to the subdivision and the subdivider;
 - g. A certificate from the subdivider's engineer that the improvements are constructed in accordance with the approved engineering drawings or an explanation and certification as to any deviations;
 - h. A certificate from the developer's attorney that the appropriate corporate action has been taken by the subdivider to make the conveyances through the bill of sale, quit claim deed or other documents;
 - i. "As built" drawings to be delivered in a scale of one (1) inch equal to one hundred (100) feet and also in a digital format on a micro-computer CD-ROM that is compatible with the AutoCADD, Intergraph or DXF File formats. All utilities and public improvements located in the subdivision, including rights of way lines, lot number, lot lines, and other subdivision mapping data typical to the Village's GIS, shall be included as overlay maps; and,
 - j. DISCLOSURE OF BENEFICIAL INTEREST IN ANY LAND TRUSTS. The Village's acceptance of dedication shall be expressly conditioned on the presentation by the developer of a policy of title insurance for the benefit of the Village showing that the developer owns the improvement in fee simple and that there are no liens, encumbrances, or other restrictions on the improvement unacceptable to the Village Attorney in his reasonable judgment. Acceptance of dedication of any improvement shall not constitute a waiver by the Village of the right to draw funds under the security provided herein on account of any defect in or failure of the improvement that is dedicated or which occurs after the acceptance of the dedication.

3. **RESOLUTION.** Upon receipt of the certificate of the Village Engineer and the approval of the Village Attorney of the public improvements the Village Board shall adopt a resolution accepting the public improvements.

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Article 4.8

Changes and Amendments to This Title

4.8.1. General Requirements for Changes and Amendments.

- A. PUBLIC HEARING REQUIRED. The regulations imposed and the districts covered by this Title may be amended from time to time, but no such amendments shall be made until a public hearing has been held, and a report and recommendation has been made thereon by the Plan Commission.
- B. REPORT OF PUBLIC HEARING. Following a public hearing, the Plan Commission shall transmit within thirty (30) days to the Village Board a report thereon containing its findings of fact and recommendation(s) for action to be taken by the Village Board.
- C. ACTION BY THE VILLAGE BOARD. After receiving the recommendations and report of the Plan Commission, the Village Board shall within thirty (30) days review the recommendation and report and may pass the proposed amendment without change, may reject it, or may recommit it to the Plan Commission for further consideration. When the Plan Commission does not recommend approval of the proposed change or amendment, such proposed change or amendment shall not be passed except upon favorable vote of two-thirds (2/3) of all members of the Village Board.
- D. EFFECT OF DENIAL. After a public hearing, no application for a proposed change or amendment which has been denied wholly or in part by the Village Board shall be resubmitted for a period of one (1) year from the date of said order of denial, except on the grounds of substantial new evidence or proof or changed conditions found to be valid by the Plan Commission and Village Board.

4.8.2. Additional Standards and Criteria for Amending the Village Comprehensive Plan

- A. THE ROLE OF THE COMPREHENSIVE PLAN IN ADMINISTRATION OF THIS ORDINANCE. The Richmond Comprehensive Plan shall serve as the basic policy guide for the administration of this Ordinance. The Comprehensive Plan is a statement of goals and policies to guide new development, redevelopment and infrastructure investment decisions in the Village. It therefore, is the intent of the Village to administer this Ordinance in accordance with the Comprehensive Plan. The goals and policies of the Comprehensive Plan may be amended from time to time to meet changing community preferences, needs and requirements. Such amendments may at times be necessary to accommodate proposed development or redevelopment of property that may be inconsistent with the Comprehensive Plan. This Section therefore establishes the procedures for amending the Comprehensive Plan.
- B. INITIATION OF AMENDMENTS. An amendment to the Comprehensive Plan may be initiated only by the Plan Commission, the Village Board, or the Owner of property proposing development of such property under this Chapter that may be inconsistent with the Comprehensive Plan.
- C. NOTIFICATION REQUIREMENTS. No hearing shall be held on an application unless at least fifteen days notice of the time and place of such hearing shall be published in an official paper of general circulation in the Village.
- D. APPLICATION FOR AMENDING THE COMPREHENSIVE PLAN.
 - 1. FILING AN APPLICATION. Where an amendment to the Comprehensive Plan is proposed by someone other than the Plan Commission or Village Board, an application requesting the amendment shall be filed with the Development Administrator. The application shall be accompanied by a written statement from the applicant stating the basis for the request.
 - 2. STAFF REVIEW. Upon receiving an application requesting an amendment, or upon an instruction from the Village Board, or Plan Commission, that it will

consider a proposed amendment, the Development Administrator shall review the proposed amendment to evaluate its effect on the integrity of the Comprehensive Plan and this Chapter. The Development Administrator may deliver copies of the proposed amendment to appropriate government agencies for review and comment. Prior to the scheduled public hearing, the Development Administrator shall deliver to the Plan Commission a written report incorporating or summarizing the comments of the Development Administrator, Planning Consultant, other Village departments, and other agencies.

3. ACTION BY THE PLAN COMMISSION.
 - a. The Plan Commission shall hold a public hearing on the proposed amendment.
 - b. In considering the amendment, the Plan Commission shall review the proposed amendment, the standards set forth in Section 4.8.2.(D)4 below, the report of the Development Administrator, and any oral and written comments received by the Plan Commission before or at the public hearing or otherwise made part of the record of the Plan Commission on the application. Based on this information, the Plan Commission shall submit, within a reasonable time, a report and recommendation to the Village Board on whether or not the proposed amendment should be adopted.
 4. STANDARDS FOR REVIEWING PROPOSED COMPREHENSIVE PLAN AMENDMENTS. In deciding whether to recommend adoption of a proposed amendment to the Comprehensive Plan, the Plan Commission shall consider whether the amendment is necessary based on one or more of the following factors:
 - a. There has been a change in projections or assumptions (such as demographic trends or the availability of public facilities) from those on which the Comprehensive Plan is based; or
 - b. The data used as the basis for formulating the Comprehensive Plan are in error or out of date; or
 - c. New issues or needs have presented themselves to the Village that are not adequately addressed in the Comprehensive Plan; and
 - d. The amendment will not adversely affect the character of the area in which the proposed development is to be located.
 5. ACTION BY THE VILLAGE BOARD. After receiving the recommendations and report of the Plan Commission, the Village Board shall, within thirty (30) days, review the recommendations and report and may accept the findings and recommendations of the Plan Commission in whole or part or may reject them in whole or in part, or the Village Board may refer the matter back to the Plan Commission for further consideration. However, in the event the Plan Commission recommends against an amendment of the Comprehensive Plan, then it may be approved only upon the favorable two-thirds (2/3) vote of all of the members of the Village Board.
- E. TYPOGRAPHICAL OR DRAFTING ERRORS. Notwithstanding any other provisions set forth above, amendments to correct typographical or drafting errors in the Comprehensive Plan may be adopted by the Village Board at a regular meeting without the posting or personal delivery of prior notice and without a public hearing.

4.8.3. Additional Standards and Criteria for Amending the Unified Development Ordinance.

- A. INITIATION OF AMENDMENTS. Except for Article 4.5, and Articles 6.6 through 6.9, inclusive, and Chapter 7, amendments to the text of this Title or the Zoning Map shall be proposed in writing by the Village Board, by the Plan Commission, by any person having

proprietary interest in property in the Village, or by any interested citizen of the Village. The Village Board, in the exercise of its sole discretion and authority, may amend Article 4.5, and Articles 6.6 through 6.9, inclusive, and Chapter 7 without a public hearing.

B. APPLICATION FOR AMENDING THE UNIFIED DEVELOPMENT ORDINANCE.

1. APPLICATION FOR UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT. Where an amendment to text of this Title is proposed by someone other than the Development Administrator, Plan Commission or Village Board, an application requesting the amendment shall be filed with the Development Administrator. The application shall be in a form determined by the Development Administrator and shall include the section of this Title to be amended and the proposed text.
2. APPLICATION FOR ZONING MAP AMENDMENT. Every application for an amendment to the Zoning Map shall be accompanied by the following, in a number prescribed by the Development Administrator:
 - a. The certificate of a registered architect or registered structural engineer licensed by the State of Illinois, or of an owner-designer, that the proposed construction, remodeling, or reconstruction complies with all of the provisions of this Title subject to the proposed amendment;
 - b. A plat, in duplicate, of the piece or parcel of land, lot, lots, block or blocks, or parts or portions thereof, drawn to scale showing the actual dimensions of the subject property, according to the recorded plat of such land;
 - c. A site plan, drawing to scale and in such form as may from time to time be prescribed by the Development Administrator showing the location, ground area, height, and bulk of all present and proposed structures, drives and off-street parking and loading spaces, the building lines in relation to lot lines, waste disposal areas, the use to be made of such present and proposed structures on the land, and such other information as may be required by the Development Administrator for the proper enforcement of this Title;
 - d. A legal description of the subject property;
 - e. Evidence of ownership of the subject property and, if the applicant is not the record owner of the subject property, written consent of the record owner to make such application;
 - f. A description of the activity to be conducted in sufficient detail to enable the Development Administrator to determine that there will be compliance with all of the applicable standards of this Title; and
 - g. CERTIFICATION OF NOTICE. The applicant shall furnish, at or before the time of hearing, a written statement certifying that he has complied with the requirements of this subsection. Attached to the written statement shall be a list of all property owners notified in accordance with the above, the returned notices what are undeliverable by the post office, a copy of the notice sent to each of the individuals therein specified, and an affidavit, witnessed by a notary public that the sign was erected according to the requirements of this subsection.
3. STAFF REVIEW. Upon receiving an application requesting an amendment, or upon an instruction from the Village Board, or Plan Commission that it will consider a proposed amendment, the Development Administrator shall review the proposed amendment to evaluate its conformity with the Comprehensive Plan and this Chapter. The Development Administrator may deliver copies of the proposed amendment to appropriate Village departments and government

agencies for review and comment. Prior to the scheduled public hearing, the Development Administrator shall deliver to the Plan Commission a written report incorporating or summarizing the comments of the Development Administrator, Planning Consultant, or Village departments, and other agencies.

4. ACTION BY THE PLAN COMMISSION.
 - a. The Plan Commission shall hold a public hearing on the proposed amendment.
 - b. In considering the amendment, the Plan Commission shall review the proposed amendment, the report of the Development Administrator, and any oral and written comments received by the Plan Commission before or at the public hearing or otherwise made part of the record of the Plan Commission on the application. Based on this information, the Plan Commission shall submit, within a reasonable time, a report and recommendation to the Village Board on whether or not the proposed amendment should be adopted.
5. ACTION BY THE VILLAGE BOARD. After receiving the recommendations and report of the Plan Commission, the Village Board shall, within thirty (30) days, review the recommendations and report and may accept the findings and recommendations of the Plan Commission in whole or part or may reject them in whole or in part, or the Village Board may refer the matter back to the Plan Commission for further consideration. However, in the event the Plan Commission recommends against an amendment of this Ordinance, then it may be approved only upon the favorable two-thirds (2/3) vote of all of the members of the Village Board.

C. NOTIFICATION REQUIREMENTS. No hearing shall be held on an application for a zoning amendment unless the applicant complies with the requirements of this Section.

1. PUBLISHED NOTICE. For text and map amendments, the applicant shall cause to be published in an official paper of general circulation in the Village the time and place of such hearing at least fifteen (15) days prior to said hearing date.
2. WRITTEN NOTICE. For map amendments, in addition to the publication notice requirements otherwise provided by law, an applicant shall, not less than fifteen (15) days and not more than thirty (30) days prior to the date set for the public hearing, mail by return receipt requested delivery, to the owners, as recorded in the Office of the Recorder of Deeds of McHenry County and as appears from the authentic tax records of McHenry County, of all adjacent property or property lying across a public road, street, alley and other public way, or railroad, or stream, creek or river from the subject property in each direction of the property lines of the subject property for which the public hearing is requested.

A copy of the notice with a copy of the list of names and addresses shall be mailed to the Development Administrator at the time notice is given to the adjoining property owners.

The notices herein required shall contain the [common street address or addresses and the property index number \("PIN"\) or numbers of all the parcels of real property](#) for which the public hearing is requested, a brief statement of the nature of the request, the name and address of the legal and beneficial owner of the property, and the location and time and date on which said hearing shall be held. If, after a bonafide effort to determine such ownership by the applicant, the owner cannot be found, the notice requirements of this section shall be deemed satisfied upon filing by the applicant of an affidavit evidencing the inability to serve such notice. (*Ordinance 2012-03, adopted April 19, 2012*)

3. NOTICE BY SIGN. An applicant for public hearing shall post a readable sign(s) on each adjacent roadway in a number and location as determined by the Development Administrator not less than fifteen (15) days prior to the date before the public hearing. Sign(s) must be removed by the applicant no later than ten (10) days after conclusion of the hearing.

Each sign shall be double faced and displayed such that each sign face is perpendicular to the adjoining roadway. The face of the sign(s) required by this Section shall be at least twenty-four (24) inches in height and thirty-six (36) inches in length. The sign(s) shall contain the following message:

PUBLIC NOTICE

CONSIDERATION OF
ZONING CHANGE
ON THIS PROPERTY-
CALL 815-678-4040
FOR MORE INFORMATION

The sign shall have a white or yellow background with three (3) inch high black capital block letters, except that the words "**ZONING CHANGE**" shall be in four (4) inch high black capital block letters. The sign(s) shall meet all other requirements set forth by the Village. All costs associated with preparing and displaying public hearing sign(s) are to be borne by the applicant.

- E. PROTEST AGAINST AMENDMENT. In case of written protest against any proposed amendment, signed and acknowledged by the owners of twenty-percent (20%) of the frontage proposed to be altered, or by the owners of twenty-percent (20%) of the frontage immediately adjoining or across an alley therefrom, or by the owners of twenty-percent (20%) of the frontage directly opposite the frontage proposed to be altered, is filed with the Village Clerk, the amendment shall not be passed except by a favorable vote of two-thirds (2/3) of the Board of Trustees. In such cases, a copy of the written protest shall be served upon the applicant for the proposed amendments and a copy upon the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment.