

## ARTICLE XI. THE ZONING BOARD OF APPEALS

### SECTION

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#### Sec. 150.1101 All Provisions Governing the Membership, Organization, Officers, and Meetings of the Zoning Board of Appeals

All provisions governing the membership, organization, officers, and meetings of the Zoning Board of Appeals are contained in Article XVIII, entitled "Zoning Board of Appeals" of Chapter 33, entitled "Boards and Commissions." (Ord. 74-07, J. 33, p. 603-609, passed 9/24/07)

#### Sec. 150.1102 Hearings

(A) Decisions and recommendations of the Zoning Board of Appeals shall be reached only after a public hearing and no evidence shall be presented and no witnesses heard on any appeal or application for variation except at a properly convened hearing of the Zoning Board of Appeals, which hearing may be conducted during a meeting of the Zoning Board of Appeals. (Ord. 74-07, J. 33, p. 603-609, passed 9/24/07)

(B) All testimony before the Zoning Board of Appeals shall be given publicly under oath or affirmation before a court reporter paid for by the petitioner therein for each case so heard and the Chairman, or in his absence the Vice Chairman, shall administer or authorize the administration of oaths and may compel the attendance of witnesses.

(1) The Board may take judicial notice of facts to the same extent and in the same manner as courts of record and may consider any relevant facts within the personal knowledge of any member of the Board which are stated into the records by such member.

(2) The petitioner or appellant, as the case may be, shall bear the burden of establishing conclusively that the requested relief will conform to all applicable laws and regulations other than that for which relief is sought.

(3) All exhibits containing plans and specifications for the proposed use shall remain part of the permanent records of the Zoning Board of Appeals.

(C) Pursuant to Section 150.306 of this Chapter, the petitioner or appellant, as the case may be, shall pay the costs of the recording and two (2) certified copies of the transcript of the record of such hearing(s), made by the official court reporter retained by the City, which transcript shall thereafter be maintained by the Secretary and the City Clerk as part of the official record of each case. (Ord. 46-02, J. 28, p. 348-351, passed 7/22/02; Ord. 74-07, J. 33, p. 603-609, passed 9/24/07)

(D) The Zoning Board of Appeals may adopt Rules of Procedure which include the following: Two (2) members of the Zoning Board of Appeals may, at the Petitioner's request, constitute a hearing panel qualified to represent the Zoning Board of Appeals and conduct a public hearing on its behalf. In such event, however, the hearing shall not constitute a meeting of the Zoning Board of Appeals

unless a majority of a full quorum of the Board (three members) is present. (Ord. 74-07, J. 33, p. 603-609, passed 9/24/07)

(E) The Zoning Board of Appeals shall make its decision or its recommendation, as the case may be, on all matters heard by it within a reasonable time following the hearing. All decisions or recommendations will be made during the Zoning Board of Appeals' regularly scheduled meeting or at special meetings held at the call of the Chairman. (Ord. 74-07, J. 33, p. 603-609, passed 9/24/07)

(1) No member of the Zoning Board of Appeals shall cast his vote on any subject for which a hearing was conducted unless he was present for the hearing or certifies that he has read the official court reporter's transcript of the hearing prior to casting his vote.

(2) The concurring vote of four (4) members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or grant any authorized variation.

(3) The concurring vote of four (4) members of the Zoning Board of Appeals shall be necessary to recommend or grant a variation from the terms of this Chapter, or to recommend and/or decide in favor of the petitioner on any other matter upon which the Zoning Board of Appeals is required to pass, under this Chapter or any other ordinance of the City.

(4) In all instances where the decision of the Zoning Board of Appeals is final, such decision shall be a final administrative determination and shall be subject to administrative review by a court of law in the manner provided by applicable Illinois statutes.

(F) Every ruling of the Board shall be evidenced by a Final Order signed by the Chairman or Acting Chairman.

(1) Final Orders of the Zoning Board of Appeals that are decisive of cases shall be deemed "entered" when an original thereof has been served upon all Parties of Record to the underlying hearing. Service shall be deemed to have been made when an original Final Order has been either: (a) personally delivered to each Party of Record; or (b) placed in the U.S. Mail, certified, to each Party of Record. **(Ord. 2-09, J. 35, p. 004-006, passed 1/12/09)**

(2) All Final Orders that have been entered pursuant to this Section 150.1102(F) shall be public records. The thirty-five (35) day statutory period within which administrative review of a Final Order must be commenced shall not be stayed because a rehearing is pending or in process. **(Ord. 2-09, J. 35, p. 004-006, passed 1/12/09)**

(G) Any exhibits containing plans and specifications for the proposed use shall remain part of the permanent records of the Zoning Board of Appeals. (Ord. 74-07, J. 33, p. 603-609, passed 9/24/07)

#### Sec. 150.1103 Jurisdiction.

(A) The Zoning Board of Appeals is vested hereby with the following jurisdiction and authority and it shall be its duty:

(1) To hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator in the administration and enforcement of this Chapter.

(2) To hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator in the administration or enforcement of any other ordinances of the City upon which the Zoning Board of Appeals is required to pass.

(3) To hear and decide applications for variations from the regulations and restrictions contained in this Chapter in harmony with its general purpose and intent, only in the specific instances set forth in Article XII of this Chapter, and only where the Zoning Board of Appeals makes findings of fact based upon the standards prescribed in this Chapter that there is particular hardship in the way of carrying out the strict letter of the regulations of this Chapter.

(4) To hold public hearings and make final decisions or to make findings of fact and recommendations to the City Council, as directed by the City Council, on any matters referred to it by the City Council.

(B) While the zoning regulations contained in this Chapter affect and regulate the land and territory within Fort Sheridan, the JPC shall have jurisdiction and exercise its powers on matters related to Fort Sheridan and referred as conferred upon the JPC pursuant to the terms of the Highwood/Highland Park Intergovernmental Planning Agreement of 1996, as it may be amended from time to time hereafter. (Ord. 74-07, J. 33, p. 603-609, passed 9/24/07)

Sec. 150.1104 Limitation.

Nothing contained in this Chapter shall be construed to give or grant to the Zoning Board of Appeals the power or authority to alter or change the Official Zoning Map, such power and authority being reserved to the Council of the City of Highland Park in the manner provided in this Chapter. (Ord. 74-07, J. 33, p. 603-609, passed 9/24/07)

Sec. 150.1105 Administrative Review.

All final decisions of the Zoning Board of Appeals shall be subject to the provisions of the Administrative Review Law and all amendments and modifications thereof and the rules adopted pursuant thereto in the manner provided by law. (Ord. 74-07, J. 33, p. 603-609, passed 9/24/07)