

ORDINANCE 2014- 14

AN ORDINANCE AMENDING THE WEST DUNDEE  
ZONING REGULATIONS CHAPTER 12: ADMINISTRATION AND ENFORCEMENT

WHEREAS, the Village of West Dundee, Kane County, Illinois, is a home rule municipality as contemplated under Article VII, Section 6 of the Constitution of the State of Illinois, and the passage of this Ordinance constitutes an exercise of the Village's home rule powers and functions as granted in the Constitution of the State of Illinois; and

WHEREAS, the Village President and Board of Trustees have made changes to the administrative offices and Planning and Zoning Commission as detailed in the West Dundee Municipal Code; and

WHEREAS, the a public hearing has been held by the West Dundee Planning and Zoning Commission on March 24, 2014 and on April 28, 2014 pursuant to public notice to solicit public input regarding certain changes to the West Dundee Zoning Regulations; and

WHEREAS, after careful consideration of the information and testimony presented, the Planning and Zoning Commission recommended to the West Dundee Village Board that said changes to the West Dundee Zoning Regulations be made; and

WHEREAS, the President and Board of Trustees have carefully considered the recommendations of the Planning and Zoning Commission as well as the information presented and have determined that the changes will improve administrative and enforcement procedures for the betterment of the Village.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of West Dundee, Kane County, Illinois, as follows:

SECTION 1: That Section 10-12 of the West Dundee Zoning Regulations be amended as per the attachment A.

SECTION 2: If any section, paragraph, subdivision, clause, sentence, or provision of this Ordinance shall be adjudged in any Court of competent jurisdiction to be invalid, such judgment shall not effect, impair, invalidate or nullify the remainder thereof, which remainder shall remain in full force and effect.

SECTION 3: This ordinance shall be in full force and effect upon its passage, approval, and publication in pamphlet form which publications is hereby authorized as provided by law.

PASSED by the Board of Trustees of the Village of West Dundee, Kane County, Illinois, and approved by the President of said Village this 19th day of May, 2014.

AYES: Trustees Price, Hanley, Yuscka, Wilbrandt and Kembitzky

NAYS: None

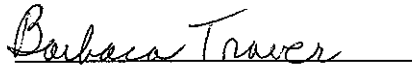
ABSENT: Trustee Pflanz

Christopher Nelson



Village President

ATTEST:  
Barbara Traver

  
Village Clerk

PASSED: 5-19-14

PUBLISHED: 5-19-14

Prepared by:

Village of West Dundee  
100 Carrington  
West Dundee, IL 60118

## ATTACHMENT A

### Chapter 12 ADMINISTRATION AND ENFORCEMENT

#### **10-12-1: ADMINISTRATION:**

#### **10-12-2: COMMUNITY DEVELOPMENT DEPARTMENT:**

#### **10-12-2-1: CERTIFICATE OF OCCUPANCY:**

#### **10-12-3: PLANNING AND ZONING COMMISSION:**

#### **10-12-4: VARIATIONS:**

#### **10-12-5: AMENDMENTS AND ZONING CHANGES:**

#### **10-12-6: SPECIAL USES:**

#### **10-12-7: PENALTY:**

#### **10-12-1: ADMINISTRATION:**

The administration of this title is hereby vested in two (2) offices of the government of the village as follows:

- A. Community Development Department
- B. Planning and Zoning Commission

#### **10-12-2: COMMUNITY DEVELOPMENT DEPARTMENT:**

The community development department shall have the authority, responsibility and duties as set forth in title 1, chapter 8, article C, "Community Development Department", of this code and the following:

- A. To review and approve plans submitted by builders in conformity with the regulations of this title, and make and maintain records thereof and issue permits.
- B. To issue certificates of occupancy, and make and maintain records thereof.
- C. To conduct inspections of buildings, structures and use of land to determine compliance with this and other applicable ordinances.
- D. To keep such records which the village requires to be kept in regard to building.
- E. To issue permits for erection of temporary structures in accordance with regulations of the West Dundee building code. (Ord. 89-04, 4-3-1989)

#### **10-12-2-1: CERTIFICATE OF OCCUPANCY:**

- A. Required: No building, or addition thereto, constructed after the effective date of this title and no addition or major alteration to a previously existing building shall be used or occupied, and no land vacant on the effective date of this title shall be used for any

purpose, until and unless a certificate of occupancy has been issued by the building commissioner. No change in use or occupancy in any business, commercial or industrial district shall be made nor any new use or occupancy established in any such district, until a certificate of occupancy has been issued by the building commissioner. Every certificate of occupancy shall state that the use or occupancy complies with all the provisions of the amended zoning title.

B. Application for Building Permit: Every application for a building permit shall also be deemed to be an application for a certificate of occupancy. Every application for a certificate of occupancy for a new or changed use of land or building where no building permit is required shall be made directly to the community development department.

C. Posting: Every certificate of occupancy required hereunder by virtue of a change in use or occupancy in a business, industrial or commercial district shall be permanently posted in a prominent place on the premises at all times.

D. Owner: In the event of a change of ownership, but not of use or occupancy, of any building located in a business, industrial or commercial district, the new owner shall within thirty (30) days after receiving title to said property notify the building commissioner of said change of ownership. "Owner" shall mean title holder of record.

E. Issuance:

1. A certificate of occupancy shall be issued only after the community development department has inspected the premises and finds:
  - a. It to be in compliance with all applicable regulations of the zoning district in which it is located; and
  - b. The use or building or structure is in conformance with the plans and specifications for which the building permit was issued.
2. Every certificate of occupancy shall be dated, shall state the use or occupancy and that it complies with the provisions of this title and shall be signed by the community development department. (Ord. 89-04, 4-3-1989)

### **10-12-3: PLANNING AND ZONING COMMISSION**

A. Organization, Powers and Duties: Appointment and duties as set forth in title 2, chapter 1 of this code.

B. Jurisdiction:

1. Applications for Appeal: To hear and decide all applications for appeals and for the types of authorized variations as hereinafter set forth in the manner prescribed and by the standards and other regulations as are applicable.
2. Meetings and Rules:

- a. All meetings of the planning and zoning commission shall be held as set forth in section 2-1-2 of this code unless the chairman shall determine there are no pending matters to form an agenda. All hearings conducted by the planning and zoning commission shall be open to the public.
- b. In all official proceedings, the chairman, or in his absence the vice chairman, of the zoning board of appeals shall have the power to administer oaths and to compel by subpoena the attendance and testimony of witnesses and the production of books and papers.
- c. The planning and zoning commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if failing to vote or absent, indicating such fact, and shall also keep records of its hearings and other official actions. A copy of every rule or regulation, every appeal, variation and every recommendation, order, requirement, decision or determination of the zoning board of appeals shall be filed immediately in the office of the village clerk and shall be a public record.
- d. The chairman of the planning and zoning commission shall have the right to cast a vote on all matters where a vote is taken.
- e. The village president of the board of trustees and shall be ex officio nonvoting members of the planning and zoning commission.
- f. The planning and zoning commission shall adopt its own rules of procedures, not in conflict with this or with other applicable ordinances or with the Illinois Compiled Statutes.

#### C. Appeals:

1. Authority: The planning and zoning commission shall hear and decide appeals from the administrative order, requirement, decision or determination made by the building commissioner under this title. It shall also hear and decide all matters upon which it is required to pass.
2. Initiation: An appeal may be taken to planning and zoning commission by any person or by any office, department, board, bureau or commission aggrieved by an administrative order, requirement, decision or determination under this title by the building commissioner.
3. Processing: An appeal shall be filed with the chairman of the planning and zoning commission for processing in accordance with the requirements of the Illinois Compiled Statutes and the rules and regulations of the zoning board of appeals. The chairman shall assign a consecutive number for identification to all matters in the order in which they are received, and in so far as it is practical; place them on the agenda of the board of appeals in their numerical order.
4. Decisions: All decisions of the planning and zoning commission on appeals from an administrative order, requirement, decision or determination of the building commissioner shall, in all instances, be forwarded to the board of trustees as

recommendations for acceptance or denial as the case may be. Final decisions rest with the board of trustees.

**10-12-4: VARIATIONS:**

A. Recommendations: The planning and zoning commission shall recommend variations from the provisions of this title in harmony with its general purpose and intent, and shall recommend them only in the specific instances where there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this title.

B. Initiation for Variation: Any owner of record of a lot or the board of trustees may apply for a variation.

C. Filing for Variation:

1. Application: An application for a variation shall be filed with the chairman of the planning and zoning commission on a form containing such information as the zoning board of appeals may from time to time, by rule, require. The application shall be accompanied by such plans or data, or both, as specified by the zoning board of appeals, and shall include a statement in writing by the applicant or adequate facts showing that the proposed variation will conform to the standards set forth herein for variation.

2. Fee: A fee of two hundred fifty dollars (\$250.00) shall be required for filing an application for a variance. If two (2) or more variances are requested the filing fee shall be three hundred dollars (\$300.00). The petitioner is also responsible for all publishing costs, legal fees and other incidental costs to the village.

3. Notices: Notices of the public hearing shall be given as follows:

a. Actual: The applicant shall give the following notices:

(1) To the persons to whom the current real estate tax bills are sent, as shown on the record of the local real estate tax collector, and to all persons residing on or in possession of portions of the premises whose names are listed on mailboxes, bells or signs on the said premises of all lots lying within two hundred fifty feet (250') of the property lines of the lot for which the variation is sought.

(2) All such notices shall be in writing and shall give the number of the appeal as assigned, the place and purpose of such hearing, and the date and time, if known, shall be given not more than thirty (30) days nor less than fifteen (15) days in advance of such hearing. The notice shall be delivered personally or by registered mail, properly addressed with sufficient postage affixed thereon, with a return receipt requested. The applicant shall file a sworn affidavit containing a complete list of the names and last known addresses of the owners of the properties required to be served, the method of service, and the names and addresses of the persons so served with copies of the notice. The affidavit shall be filed with the chairman of the planning and zoning commission and shall be a presumption of the giving of said notices.

b. Publication: The chairman of the planning and zoning commission shall cause a notice of time, place and purpose of such hearing to be published in a newspaper of general circulation within the village not more than thirty (30) days nor less than fifteen (15) days in advance of such hearing.

c. Posting: The chairman of the planning and zoning commission shall cause a notice to be posted on the property for which an appeal is being taken showing the appeal number assigned, the date, time and place of the hearing and the change or relief sought, not more than thirty (30) days nor less than ten (10) days prior to the public hearing and posted as follows:

(1) On an unimproved lot - placed not more than fifteen feet (15') from the front lot line and not less than four feet (4') nor more than six feet (6') from the ground level and placed in such a manner as to be visible from the street; and to be not less than two hundred fifty feet (250') apart if the frontage exceeds said distance.

(2) On an improved lot - placed on the front or main entrance door of the improvement so as to be visible from the outside.

(3) If more than fifteen (15) lots of record are involved in the one amendment, posting notices shall not be required on each lot.

d. Additional: Supplemental or additional notices may be distributed, published or posted as the zoning board of appeals may, by rule, prescribe from time to time.

D. Hearing on Application: Upon receipt in proper form of the application and statement referred to above, the board of appeals shall hold at least one public hearing on the proposed variation. However, the planning and zoning commission may continue from time to time the hearing without further notices being given except by public announcement at the meeting and being placed in the minutes of that meeting.

E. Standards:

1. A variation shall be recommended only if the evidence in the judgment of the planning and zoning commission sustains each of the following:

a. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zoning district; and

b. The plight of the owner was not created by the owner and is due to unique circumstances; and

c. The variation, if granted, will not alter the essential character of the locality.

2. For the purpose of implementing the above standards, the board of appeals in making its decision, whenever there are practical difficulties or particular hardship, shall also take into consideration the extent to which the following facts favorable to the applicant have been established by the evidence that:

- a. The particular physical surroundings, shape or topographical conditions of the specific property involved would bring a particular hardship upon the owner as distinguished from a mere inconvenience if the regulations were strictly enforced;
- b. The conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning classification;
- c. The alleged difficulty or hardship has not been created by any person presently having an interest in the property or any person through whom the applicant claims title;
- d. The granting of the variation will not be substantially detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; or
- e. The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood.

F. Types Of Authorized Variations: Variations from the regulations of this title may be recommended by the planning and zoning commission in the following instances in accordance with the standards set forth in subsection E of this section.

- 1. Requirements relating to yards, setbacks, spaces, land coverage, obstructions, accessory buildings and substandard lots.
- 2. Building height, but not to exceed ten percent (10%) of the existing applicable height regulations of the zoning district in which the subject site is located.
- 3. Requirements for off street parking spaces, except that no variation reducing the number of required off street parking spaces may be granted in zoning districts where a cash contribution to the parking fund is required in lieu of parking spaces.
- 4. Extensions, alterations and additions of nonconforming uses and nonconforming buildings.

G. Recommendations: All findings and recommendations of the planning and zoning commission shall be forwarded to the village president and board of trustees for final denial or acceptance. (Ord. 89-04, 4-3-1989).

**10-12-5: AMENDMENTS AND ZONING CHANGES:**

A. Initiation of Amendment: Amendments may be proposed by any interested person, organization or village official.

B. Filing for Amendment:

- 1. Application: An application for an amendment shall be filed with the chairman of the planning and zoning commission on a form containing such information as the zoning board of appeals may from time to time by rule require. The application shall be



accompanied by such plans or data, or both, as specified by the rules of the, planning and zoning commission and shall include a statement in writing by the applicant and adequate evidence showing that the proposed amendment will conform to the standards set forth herein for amendments. Copies of such application and documents shall be forwarded to the zoning board of appeals to hold a public hearing.

2. Fee: A fee of one hundred fifty dollars (\$150.00) shall be required for filing an application for an amendment. The petitioner is also responsible for all publishing costs, legal fees and other incidental costs to the village.

3. Notices: Notices of the public hearing shall be given as follows:

a. Actual: The applicant shall give the following notices:

(1) To the person to whom the current real estate tax bills are sent, as shown on the record of the local real estate tax collector and to all persons residing on or in possession of the premises whose names are listed on mailboxes, bells or signs on the said premises, of all lots lying within two hundred fifty feet (250') of the property lines of the lot for which the amendment is sought.

(2) All such notices shall be in writing and shall give the number, if any, assigned to the application, the place and purpose of such hearing and the date and time, if known, shall be given not more than thirty (30) days nor less than fifteen (15) days in advance of such hearing. The notices shall be delivered personally or may be sent properly addressed, with sufficient postage affixed thereon, with return receipt requested. The applicant shall file a sworn affidavit with copies of the notices with the chairman, showing names and addresses of the persons to whom the notices have been sent. Said affidavit shall be a presumption of the giving of said notices.

b. Publication: The chairman of the planning and zoning commission—shall cause a notice of time, place and purpose of such hearing to be published in a newspaper of general circulation within the village not more than thirty (30) days nor less than fifteen (15) days in advance of such hearing.

c. Hearing On Application: Upon receipt in proper form of the application and statement referred to above, the planning and zoning commission shall hold at least one public hearing on the proposed amendment. However, the zoning board of appeals may continue the hearing from time to time without further notices being given except by public announcement at the meeting and placed in the minutes of that meeting.

d. Findings of Fact and Recommendation: Findings of fact and recommendation of the zoning board of appeals. Within forty five (45) days after the close of the hearing on a proposed amendment, the planning and zoning commission shall make written findings of fact and shall submit same, together with its recommendations to the village president and board of trustees. Where the purpose and effect of the proposed amendment is to change the zoning classification of particular property, the zoning board of appeals shall make findings based upon the evidence presented to it in each specific case with respect to the following matters:

(1) Existing uses of property within the general area of the property in question.

- (2) The zoning classification of property within the general area of the property in question.
- (3) The suitability of the property in question to the uses permitted under the existing zoning classification.
- (4) The trend of development if any, in the general area of the property in question, including changes, if any, which have taken place since the day the property in question was placed in its present zoning classification.

e. Decisions and Recommendations by the planning and zoning commission:

- (1) The planning and zoning commission shall not recommend the adoption of a proposed amendment until after it finds that the adoption of such amendment is in the public interest and is not solely for the interest of the applicant. The planning and zoning commission may recommend the adoption of an amendment changing the zoning classification of the property in question to any other zoning classification.
- (2) A concurring vote of a majority of those members present at the meeting with a minimum of four (4) concurring votes shall be required to recommend granting or denying an application for an amendment.
- (3) Report to the village board shall contain the number of planning and zoning commission present and the number voting for and the number voting against the amendment.

f. Action by the Village President and Board of Trustees:

- (1) The village president and board of trustees upon receiving the recommendations of the planning and zoning commission may grant or deny any proposed amendment in accordance with applicable Illinois Compiled Statutes, or may refer it back to the zoning board of appeals for further consideration.
- (2) If an application for a proposed amendment is not acted upon finally by the village president and board of trustees within six (6) months of the date upon which such recommendation of the planning and zoning commission is received by the village president and board of trustees, it shall be deemed to have been denied.
- (3) In any case where an amendment has been granted covering a specific lot or lots and a building permit has not been applied for within six (6) months after the date of granting thereof, or use under the new amendment made on any of said lot or lots, then without further action by the planning and zoning commission and village president and board of trustees, such amendment shall automatically be null and void and of no further force or effect. (Ord. 89-04, 4-3-1989)

**10-12-6: SPECIAL USES:**

A. Purpose: The development and execution of this title is based upon the division of the village into districts, within which districts the use of land and buildings and the location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique

characteristics, cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use of the particular location. Such special uses fall into two (2) categories:

1. Uses publicly operated or traditionally affected with a public interest.
2. Uses entirely private in character, but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

B. Initiation for Special Use: Any owner of a lot of record, or his duly authorized agent for that purpose, may file an application to use such land for one or more of the special uses provided for in this title in the zoning district in which the land is located.

C. Filing For Special Use:

1. Application: An application for a special use shall be filed with the chairman of the planning and zoning commission—on a form containing such information as the zoning board of appeals may from time to time by rule require. The application shall be accompanied by such plans or data, or both, as specified by the planning and zoning commission—rules, and shall include a statement in writing by the applicant and adequate evidence presented showing that the proposed special use will conform to the standards set forth herein for special uses. Copies of such application shall be forwarded to the planning and zoning commission—to hold a public hearing.
2. Fee: A fee of two hundred fifty dollars (\$250.00) shall be required for filing an application for a special use. If two (2) or more special uses are requested the filing fee shall be three hundred dollars (\$300.00). The petitioner is also responsible for all publishing costs, legal fees and other incidental costs to the village.
3. Notices: Notices of the public hearing shall be given as follows:
  - a. Actual: The applicant shall give the following notices:
    - (1) To the persons to whom the current real estate tax bills are sent as shown on the record of the local real estate tax collector and to all persons residing on or in possession of the premises whose names are listed on the mailboxes, bells or signs on the said premises of all lots lying within two hundred fifty feet (250') of the property lines of the lot for which the special use is sought.
    - (2) All such notices shall be in writing and shall give the number, if any, assigned to the application, the place and purpose of such hearing and the date and time, if known, shall be given not more than thirty (30) days nor less than fifteen (15) days in advance of such hearing. The notices shall be delivered personally or may be sent by certified or registered mail properly addressed and with sufficient postage affixed thereon, with return receipt requested.

The applicant shall file a sworn affidavit with copies of the notices with the chairman

showing the names and addresses of all persons to whom the notices have been sent. Said affidavit shall be a presumption of giving of said notices.

- b. Publication: The chairman of the planning and zoning commission—shall cause a notice of time, place and purpose of such hearing to be published in a newspaper of general circulation within the village not more than thirty (30) days nor less than fifteen (15) days in advance of such hearing.
- c. Posting: The chairman of the planning and zoning commission—shall cause a notice to be posted on the property for which a special use is sought showing the number, if any, assigned to the said hearing, the date, time and place of the hearing, the nature of the special use sought, not more than thirty (30) days nor less than ten (10) days prior to the public hearing, and posted as follows:
  - (1) On an unimproved lot - placed not more than fifteen feet (15') from the front lot line and not less than four feet (4') nor more than six feet (6') from the ground level and placed in such a manner as to be visible from the street.
  - (2) On an improved lot - placed on the front or main entrance door of the improvement so as to be visible from the street.
- d. Additional: Supplemental or additional notices may be distributed, published or posted as the zoning board of appeals may, by rule, prescribe from time to time.

D. Hearing On Application: Upon receipt in proper form of the application and statement referred to above, the planning and zoning commission shall hold at least one public hearing on the proposed special use. However, planning and zoning commission may continue the hearing from time to time without further notices being given except by public announcement at the meeting and placed in the minutes of that meeting.

E. Decisions And Recommendations Of The planning and zoning commission : No special use permit shall be recommended by the planning and zoning commission unless there is a concurring vote of a majority of all members present with a minimum of four (4) concurring votes required, based on finding of fact that:

- 1. The establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- 2. The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish property values within the neighborhood.
- 3. The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- 4. Adequate utilities, access roads, drainage or necessary facilities have been or will be provided.

5. Adequate measures have been or will be taken to provide ingress and egress to design as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the village president and board of trustees.

F. Action By The President And Board Of Trustees:

1. Prior to the granting of any special use, the village president and board of trustees shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special use as deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in this chapter. In all cases in which special uses are granted, the village president and board of trustees shall require such evidence and assurances as it may deem necessary to guarantee the conditions stipulated being complied with and carried out.
2. The village president and board of trustees may grant or deny any application for a special use permit after receiving the recommendations of the planning and zoning commission including the stipulation of additional conditions and guarantees, when they are deemed necessary for the protection of the public interest.
3. No application for a special use which has been denied wholly or in part by the village president and board of trustees shall be resubmitted for a period of one year from the date of said order of denial. (Ord. 89-04, 4-3-1989)

**10-12-7: PENALTY:**

In addition to the enforcement proceedings authorized in the statutes, any person who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this title, shall, upon conviction, be fined as provided in the general penalty in section 1-4-1 of this code for such offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.