

**VILLAGE OF OSWEGO
KENDALL AND WILL COUNTY, ILLINOIS**

ORDINANCE NO. 15 -- 57

**AN ORDINANCE OF THE VILLAGE OF OSWEGO, KENDALL AND WILL COUNTIES,
ILLINOIS, ELIMINATING THE VILLAGE PLAN COMMISSION
AND ZONING BOARD OF APPEALS AND CREATING A
“PLANNING AND ZONING COMMISSION”**

**ADOPTED BY
THE PRESIDENT AND BOARD OF TRUSTEES
OF THE
VILLAGE OF OSWEGO**

This 15th day of September, 2015

Prepared by and Return to:
Village of Oswego
100 Parkers Mill
Oswego, IL 60543

Published in pamphlet form by authority of the President
and Board of Trustees of the Village of Oswego on 16th day of September, 2015.

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WHEREAS, the Village of Oswego (“Village”) has a population of more than 25,000 and is therefore a “Home Rule Unit” under the 1970 Illinois Constitution; and

WHEREAS, the Illinois Constitution of 1970 provides that a Home Rule Unit may exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health, safety, morals and welfare; to license, to tax; and to incur debt; and

WHEREAS, the Village has in full force and effect a codified set of those ordinances of the Village which are of a general and permanent nature, which said codified set is known and designated as the Village Code of the Village of Oswego, as amended; and

WHEREAS, the Village of Oswego is a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals and welfare; and

WHEREAS, the Village currently has both a Zoning Board of Appeals and a Plan Commission; and

WHEREAS, the Village currently has both a Zoning Board of Appeals and a Plan Commission; and

WHEREAS in order to promote the efficiency and effectiveness of processing various applications, to achieve certain efficiencies through consolidation, to eliminate certain confusion and duplication of efforts in the zoning and development process, it is in the best interest of the Village of Oswego to eliminate the Plan Commission and the Zoning Board of Appeals and to create a combined Planning and Zoning Commission (“PZC”); and

WHEREAS, the PZC will permit a more efficient operation of the Village Planning Department; and

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF OSWEGO, KENDALL AND WILL COUNTIES, ILLINOIS IN THE EXERCISE OF THEIR HOME RULE, STATUTORY AND OTHER POWERS, as follows:

SECTION 1: ELIMINATION OF ZONING BOARD OF APPEALS.

That Title 2, Chapter 5 (2-5-1 through 2-5-5) of the Oswego Code of Ordinances be and the same are hereby repealed.

SECTION 2. ELIMINATION OF PLAN COMMISSION.

That Title 2, Chapter 2 (2-2-1 through 2-2-8) of the Oswego Code of Ordinances be and the same are hereby repealed.

SECTION 3. AMENDMENT TO CHAPTER 13 OF THE ZONING ORDINANCE.

That Chapter 13 of the Village of Oswego's Zoning Ordinance is hereby amended to eliminate references to the Plan Commission and Zoning Board of Appeals as provided in exhibit "A".

SECTION 4. CREATION OF PLANNING AND ZONING COMMISSION.

That Title 2 of the Oswego Code of Ordinances is hereby amended to include the following as Chapter 11:

Chapter 11 Planning and Zoning Commission

2-11-1: PURPOSE:

The Planning and Zoning Commission "PZC" is hereby created to provide the President and Board of Trustees with guidance and direction on matters respecting land uses planning and zoning within the Village and outside the corporate limits of the Village within the Village's one and one-half mile jurisdiction as permitted by law. The PZC is further created to fulfill its duties pursuant to the Ordinances of the Village, the laws of the State and the directives of the President and Board of Trustees. The role of the PZC shall be solely advisory in nature unless it is explicitly provided otherwise by Ordinance.

2-11-2: APPOINTMENT:

The Members of the PZC shall be residents of the Village of Oswego appointed by the Village President with the advice and consent of the Board of Trustees.

2-11-3: TERM OF OFFICE:

Upon the expiration of the Initial Terms of Office as set forth in 2-11-4, all Members shall be appointed for a term of four (4) years. Members shall serve until their successor is appointed and confirmed. Provided, however, that Members may be removed for cause by the Village President with the advice and consent of the Village Board.

2-11-4: INITIAL TERM OF OFFICE:

The initial Members shall be appointed for the following terms: two (2) Members for two (2) year terms, two (2) Members for three (3) year terms and three (3) Members for four (4) year terms. The Village President shall specify in the initial appointment of each member the term of office for which they will serve.

2-11-4: COMPENSATION:

Members of the PZC shall serve without compensation unless specifically provided otherwise by Resolution or Ordinance.

2-11-5: ORGANIZATION:

The President shall appoint the Chair and Vice Chair of the Commission who shall retain that office until replaced. The Chair shall preside over the meetings of the PZC. The Vice Chair shall preside over PZC meetings in the absence of the Chair.

2-11-6: MEETINGS AND RULES:

Quorum: Each member of the PZC shall be entitled to one vote on all matters brought before the PZC upon which a vote is required. The presence of any four (4) voting Members of the PZC at a meeting shall constitute a quorum. The concurrence of a majority of a quorum shall constitute a recommendation of the PZC.

2-11-7: JURISDICTION:

The PZC is hereby vested with the following jurisdiction and authority and it shall be its duty:

- (A) To prepare and recommend to the Village Board of the Village of Oswego a comprehensive plan looking to the present and future development and growth of said Village. Such plan, after its adoption by the said Village board shall be known as the official plan of Oswego.
- (B) To prepare and recommend to the Village Board from time to time, such changes or alterations in the plan as may be deemed necessary or advisable by the PZC.
- (C) To review and make findings of fact to the Village Board for special uses and zoning amendments subject to the standards established and to review and make recommendations to the Village Board for subdivisions, resubdivisions, preliminary and final planned unit developments, and amendments to planned unit developments and text of the Zoning Ordinance.
- (D) To exercise all duties germane to the purpose of a PZC and official plan which are now or may be hereafter conferred upon the PZC.
- (E) To advise the Village Board on all matters referred to the PZC or upon which the PZC is required to by Ordinance or law to provide guidance.
- (F) To hear and decide appeals in which it is alleged there is an error in any order, requirement, decision, interpretation or determination (hereinafter referred to collectively as "decision") made by the building and zoning manager, in the manner set forth in the Zoning Ordinance.
- (G) To hear and recommend to the Village Board on applications for variations from the regulations and restrictions imposed by the village zoning and subdivision control ordinances, in the manner and subject to the standards set forth in the Ordinances.

SECTION 5. AMENDMENTS TO ZONING ORDINANCE The Village of Oswego Zoning Ordinance be and is hereby amended as set forth in Group Exhibit A attached hereto and incorporated herein.

SECTION 6. INTENTION. It is the intent of this Ordinance that the Plan Commission and the Zoning Board of Appeals be eliminated and their various duties assumed by the PZC, and that all Ordinances of the Village which reference the Zoning Board of Appeals or Plan Commission by any

name shall be amended as the context required to the PZC. Further, that the PZC shall assume all duties and responsibilities of the Zoning Board of Appeals and the Plan Commission.

SECTION 7: SEVERABILITY

This ordinance and every provision thereof shall be considered severable. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 8: REPEALER

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 9: EFFECTIVE DATE

This Ordinance shall be in full force and effect immediately upon its passage, approval and Publication in pamphlet form which is hereby authorized, as provided by law.

PASSED by the Board of Trustees of the Village of Oswego, Kendall and Will Counties, Illinois this 15th day of September, 2015.

RYAN KAUFFMAN	<u>AYE</u>	JUDY SOLLINGER	<u>AYE</u>
KARIN MCCARTHY-LANGE	<u>AYE</u>	SCOTT VOLPE	<u>ABSENT</u>
PAM PARR	<u>AYE</u>	JOE WEST	<u>ABSENT</u>

APPROVED by me, Gail E. Johnson, as President of the Village of Oswego, Kendall and Will Counties, Illinois this 15th day of September, 2015.


GAIL E. JOHNSON, VILLAGE PRESIDENT


TINA TOUCHETTE, VILLAGE CLERK

STATE OF ILLINOIS)
)
COUNTIES OF KENDALL)
AND WILL

SS

CLERK'S CERTIFICATE
(ORDINANCE)

I, Tina Touchette, the duly qualified and acting Village Clerk of the Village of Oswego, Kendall and Will County, Illinois, do hereby certify that I am the keeper of its books and records and that the attached hereto is a true and correct copy of an Ordinance entitled:

**AN ORDINANCE OF THE VILLAGE OF OSWEGO, KENDALL AND WILL COUNTIES,
ILLINOIS, ELIMINATING THE VILLAGE PLAN COMMISSION
AND ZONING BOARD OF APPEALS AND CREATING A
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which Ordinance was duly adopted by said Board of Trustees at a regular meeting held on the 15th day of September, 2015, approved by the Village President on the 15th day of September, 2015 and thereafter published in pamphlet form.

I do further certify, in my official capacity, that a quorum of said Board of Trustees was present at said meeting and that the Board complied with all requirements of the Illinois Open Meetings Act.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of September, 2015.



Tina Touchette

Tina Touchette, Village Clerk
Village of Oswego

Exhibit A

Zoning Ordinance

SECTION 13.00 – ADMINISTRATION AND ENFORCEMENT

13.01 GENERAL PROVISIONS

A. The administration of this Ordinance is hereby vested in the following officers of the Village:

1. The Office of the Zoning Administrator;
2. ~~The Zoning Board of Appeals;~~
3. ~~The Office of the Secretary of the Zoning Board of Appeals;~~
4. ~~The Plan Commission.~~

13.02 OFFICE OF THE ZONING ADMINISTRATOR

A. Appointment. The Zoning Administrator shall be appointed by the Village President with the advice and consent of the Village Board. The Director of the Department of Community Development shall be the Zoning Administrator.

B. Duties of the Zoning Administrator. The Zoning Administrator and/or his duly appointed and acting assistants shall administer and enforce this ordinance. It shall be the duty of the Zoning Administrator to:

1. Register all nonconforming uses;
2. Conduct and oversee inspections of structures and use of land to determine whether there is compliance with this ordinance, and, in the case of any violation, to notify in writing the person or persons responsible, specifying the nature of the violation and ordering corrective action;
3. Issue violation notices that require compliance within ten (10) calendar days, and advise suspected violators of their right of appeal;
4. Require that all construction of work of any type be stopped when such work is not in compliance with this Section;
5. Serve as an advisor on the **Planning and Zoning Commission**~~Plan Commission, Zoning Board of Appeals, and Community Development and Building and Zoning Committee~~ and forward applications for amendments to the Zoning Title text or map and special uses, applications for appeals and variations, and all applications for development;
6. Review all cases of encroachment into required yards;
7. Interpret the zoning regulations when questions arise;
8. Determine which uses, though not contained by name in a zoning district list of permitted uses, are of the same general character and are permitted within the zoning district;

1. ~~All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such times as the Board may determine. All hearings required by this ordinance to be conducted by the Board shall be open to the public. At hearings of the Board any interested person may appear in person or by duly authorized agents or attorneys. All testimony before the Board shall be given under oath. The Chairman, or in his absence, the acting Chairman, shall administer or authorize the administration of oaths and may compel the attendance of witnesses. The Board shall keep minutes of its proceedings, showing the vote on every question, or if absent or failing to vote, indicating that fact. The Board shall also keep records of its hearings and other official actions. Each member is entitled to vote on each question unless a member is absent (either from the then-present question is based) or has disqualified himself. Every rule, regulation, decision or determination of the Board shall immediately be filed with the Secretary of the Board, the Zoning Administrator, and the Village Clerk and shall be a public record.~~
 2. ~~The Board shall adopt and publish its own rules of procedure not in conflict with this ordinance or with the Illinois statutes. The Board may select or appoint such officers or committees as it deems necessary. A copy of the rules of procedure shall at all times be on file in the Office of the Village Clerk. The minutes of the Board shall be available for public examination in the Office of the Village Clerk.~~
- D. ~~Quorum. Four (4) members of the Board shall constitute a quorum. No meeting or hearing shall be conducted by the Board without a quorum being present.~~
- E. ~~Recommendations. All recommendations of the Board on any appeals, variations, and all other such matters on which it is required to act, shall, in all instances, be advisory in nature and shall be subject to final consideration, evaluation and determination by the Village Board.~~
- F. ~~Decisions. The Board shall hear and decide all matters presented to it within ninety (90) days from the date a complete application or appeal is received. The Board may reverse or affirm, in whole or in part, or may modify or amend any order requirement, decision or determination appealed from to the extent and in the manner the Board may decide to be fitting and proper under the circumstances, subject to the provisions contained in this ordinance or in the applicable Illinois statutes.~~
- G. ~~Office of the Secretary of the Zoning Board of Appeals. The Secretary of the Zoning Board of Appeals shall be appointed by the Board to serve until a successor is appointed and shall have the following duties:~~
1. ~~Record the minutes of the Board's proceedings and actions, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact;~~
 2. ~~Furnish members of the public with such forms for appeals and applications for variations as are approved by the Board;~~
 3. ~~Receive on behalf of the Zoning Board of Appeals all such forms, when completed and executed by the appellant or applicant, or his agent or attorney; and,~~
 4. ~~Perform such other duties as may be assigned from time to time by the Board.~~

13.04 PLAN COMMISSION

- A. ~~Creation and Membership. In order that provisions be made for the preparation and adoption of an Official Plan of public improvements for the guidance, direction and control of the growth and development of the Village of Oswego, a Plan Commission for the Village of Oswego has been previously established under the provisions of an Act of the General Assembly of the State of Illinois entitled "Revised Cities and Villages Act", approved August 15, 1941, and effective January 1, 1942, and amendments thereto.~~

D. ~~Quorum.~~ Each member of the Plan Commission, with the exception of the members who are ex officio members of said Commission, shall be entitled to one (1) vote on all matters brought before the Commission upon which a vote is required. The presence of any four (4) voting members of the Commission at a meeting shall constitute a quorum. The concurrence of four (4) votes shall constitute a recommendation of the Plan Commission.

E. ~~Recommendations.~~ All recommendations of the Commission on any applications for amendments to the zoning title text or map or any application for special use or on any other matter, shall in all instances, be advisory in nature and shall be subject to final consideration, evaluation and determination by the Village Board.

13.05 VARIATIONS

A. Authorization. The ~~Planning and Zoning Commission~~ **Zoning Board of Appeals** may recommend approval, approval with conditions, or denial of such variations from the terms of this Ordinance as will not be contrary to the public interest. Variations may be authorized only when the Board has made findings of fact based upon the standards set out in Section 13.05 – D, that owing to special conditions a literal enforcement of the provisions of this ordinance 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. An application for a variation shall be filed with the Zoning Administrator who shall forward without delay a copy of each to the ~~Secretary of the Planning and Zoning Commission~~ **Board**. An application for a variation shall be processed in accordance with the provisions of Section 13.09 of this Section. An application for a variation shall be valid for a period of two (2) years from the date on which the application is filed with the Department of Community Development.

C. Hearing and Notice. The Board shall select a reasonable time and place for the hearing no more than ninety (90) days from the date the application for variation is received by the Zoning Administrator. All hearings and publishing information in Section 13.09 is to be followed.

D. Standards for Variations. The Village Board shall not vary the regulations of this Ordinance unless the ~~Planning and Zoning Commission~~ **Zoning Board of Appeals** shall make findings of fact based upon the evidence as presented that:

1. 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;
2. The alleged hardship has not been directly created by any person presently having a proprietary interest in the premises;
3. Strict enforcement of this title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district;
4. The proposed variation will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood and will not alter the essential character; and
5. The proposed variation is in harmony with the spirit and intent of this ordinance.

E. Decisions on Variations. The ~~Planning and Zoning Commission~~ **Zoning Board of Appeals** shall make a recommendation on all requests for variations to the Village Board within forty-five (45) days of the last public hearing thereon unless the applicant shall have consented to a longer period. All such recommendations shall be accompanied by findings of fact. The Board may impose 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

stayed by a restraining order, which may be granted by the **Commission Board** or by a court of record upon application following notice to the Zoning Administrator, and upon due cause shown. The **Commission Board** shall select a reasonable time and place for the public hearing on the appeal, shall give due notice thereof to the parties having a known interest therein and shall render a written decision without unreasonable delay. Upon the concurring vote of four (4) members, the **Commission Board** may reverse or affirm, in whole or in part, or may modify the decision from which the appeal was taken, and to the end the **Commission Board** shall have all the powers of the Zoning Administrator with respect to such decision.

13.07 TEXT AND MAP AMENDMENTS

- A. Authority. The Village Board, after receiving a report from the **Planning and Zoning Commission Plan Commission** containing its findings and recommendation for the map amendment and recommendations for the text amendment, may amend the regulations of this title or may amend the zoning district boundary lines.
- B. Standards for Amendments. The Commission shall not recommend nor shall the Village Board grant an amendment to alter the zoning district boundary lines unless it shall make findings based upon the evidence presented to it in each specific case that:
1. The amendment promotes the public health, safety, comfort, convenience and general welfare;
 2. The amendment complies with the policies and official land use plan and other official plans of the Village;
 3. The trend of development in the area of the subject property is consistent with the requested amendment;
 4. The requested zoning classification permits uses which are more suitable than the uses permitted under the existing zoning classification;
 5. The property cannot yield a reasonable return if permitted to be used only under the conditions allowed under the existing zoning classification;
 6. The subject property has not been utilized under the existing zoning classification for a substantial period of time; and
 7. The amendment, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.
- C. Procedure. An application for an amendment shall be processed in accordance with the provisions of Section 13.09 of this Section.
- D. Initiation of Amendment. Amendments to the text of these regulations or the Zoning District Map may be initiated by the Village Board, the **Planning and Zoning Commission Plan Commission**, the Community Development Director, any resident of the Village of Oswego or any developer of any property located within the Village of Oswego or its planning jurisdiction.
- E. Action of the **Planning and Zoning Commission**
1. The **Planning and Zoning Commission Plan Commission** shall conduct a public hearing to consider any amendment to the text of these regulations or the Zoning District Map in accordance with the provisions of Section 13.09.
 2. The **Planning and Zoning Commission Plan Commission** shall review the proposed amendment, the recommendations of the Director of Community Development and the testimony and evidence presented at the public hearing. The Commission shall recommend, with or without conditions to the Village Board approval or denial of the amendment.

public convenience and will contribute to the general welfare of the neighborhood or community;

2. The proposed building or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, utility facilities and other matter affecting the public health, safety and general welfare;
 3. The proposed building or 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;
 4. The proposed building or use has been considered in relation to the goals and objectives of the Official Plan of the Village; and
 5. There shall be reasonable assurance that the proposed building or use will be completed and maintained in a timely manner, if authorized.
- F. Effective Period. No special use permit shall be valid for a period longer than one (1) year from the date it is granted unless a building permit or certificate of occupancy is obtained within such period and the erection or alteration of a building is started or the use is commenced within such period. The Village Board may grant one extension of this period, valid for no more than one hundred eighty (180) days, upon written application and good cause shown, without notice or hearing. If any special use is abandoned, is discontinued for a continuous period of one (1) year, the special use permit for such use shall become void, and such use shall not thereafter be reestablished unless a new special use permit is obtained.
- G. Decision by Village Board. The Village Board, upon report of the ~~Plan~~**Planning and Zoning Commission** and without further public hearing, may grant or deny any proposed special use in accordance with this ordinance and applicable laws of the state, or may refer it back to the ~~Plan~~**Planning and Zoning Commission** for further consideration. If approved the Village Board shall adopt an ordinance to approve the same.
- H. Conditions and Restrictions. The ~~Plan~~**Planning and Zoning Commission** may recommend and the Village Board may impose conditions and restrictions upon the premises benefited by a special use as may be necessary to comply with the standards set forth in this Section.

If a limit is set forth by which conditions and restriction must be completed, they shall be so completed in the time specified. If no such time limit is specified, then the special use and restrictions shall be completed within one (1) year. The applicant shall be obliged to fulfill and maintain all conditions and restrictions for as long as the special use is utilized or in effect.

13.09 APPLICATIONS FOR VARIATIONS, AMENDMENTS, SPECIAL USES

The following procedures and requirements shall be applicable to any request for a variation, amendment, special use:

- A. Form. The applicant shall receive an application from the Community Development Department and fill out necessary information within the form.
- B. Public Hearing Notification Requirement. A public hearing is required before ~~either the Planning and Zoning Plan Commission or Zoning Board of Appeals~~. The following notifications shall be required:
 1. Publish Notice. Notice of the time and place of such hearings shall be published at least once, not more than thirty (30) days and not less than fifteen (15) days before the hearing, in a newspaper of general circulation in the Village. The published notice may be supplemented by such additional form of notices as the ~~Planning and Zoning Commission or Zoning Board of Appeals~~ may approve by rule.

<i>Filing Fee:</i>	\$200 (up to 2 Acres)+ \$200/Acre in excess of 2 Acres Maximum fee of \$1,000
<i>Review Fee:</i>	Billed according to staff review time

ANNEXATION (PUBLIC HEARING)	
<i>Filing Fee:</i>	\$200 (up to 2 Acres)+ \$200/Acre in excess of 2 Acres Maximum fee of \$1,000
<i>Review Fee:</i>	Billed according to staff review time

SPECIAL USE PERMIT (PUBLIC HEARING)	
<i>Filing Fee:</i>	\$200 (up to 2 Acres)+ \$200/Acre in excess of 2 Acres Maximum fee of \$1,000
<i>Review Fee:</i>	Billed according to staff time

APPEALS HEARING (PUBLIC HEARING)	
\$150 per hearing	

B. Refunds. When any petition is withdrawn prior to the required publication of legal notice, a refund of the entire fee will be given to the petitioner with the exception that \$50.00 will be withheld for administrative costs.

When any petition is withdrawn after publication of the required legal notice, but prior to the required public hearing, a refund will be given to the Petitioner of one-half (1/2) of the fee. When any petition is withdrawn after the required public hearing, no refund will be given.

If a petition must be re-published prior to the public hearing due to a petitioner's (or his authorized agent) defect in the legal notice, or the petitioner (or his authorized agent) requests the hearing be postponed, the petitioner will be charged an additional fee equal to the cost of republishing the required notice for the hearing plus a \$50.00 charge for administrative costs.

13.11 SEPARABILITY

Each Section, clause, and provision of this ordinance shall be considered as separable, and the invalidity of one or more shall not have any effect upon the validity of other Sections, clauses, or provisions of this ordinance.

13.12 VIOLATION, PENALTY, ENFORCEMENT

Any person, firm, or corporation, who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this ordinance, shall upon convictions be fined not less than one hundred fifty (150) dollars, not more than seven hundred fifty (750) dollars for each offense. Each day that a violation is permitted to exist after notification thereof shall constitute a separate offense.