

# Batavia Zoning Code

This document only provides for Chapter 5.1, 5.2 5.7, and 5.8, which are the only Chapters of the Zoning Code that apply to Amendments to the Comprehensive Plan Text or Zoning Maps. The Full Zoning Code can be found on the City of Batavia, IL website at [www.cityofbatavia.net](http://www.cityofbatavia.net)

## Chapter 5.1: Planning Administration

### Sections:

- 5.101 Purpose
- 5.102 City Council
- 5.103 Plan Commission
- 5.104 Zoning Board of Appeals
- 5.105 Director of Community Development
- 5.106 Planning and Zoning Officer
- 5.107 Code Compliance Officer

### 5.101 Purpose

The purpose of this Chapter is to identify those entities with responsibilities under the Batavia Zoning Code, and to assign duties and responsibilities under this code.

### 5.102 City Council

All matters under this Zoning Code requiring City Council action shall first be considered by the Community Development Committee and a recommendation shall be made to the City Council. The City Council has the following powers and duties under the Zoning Code:

- A. Consider and adopt, reject or modify amendments to the Comprehensive Plan pursuant to the provisions of Chapter 5.8: Amendments to the Comprehensive Plan Text or Map.
- B. Consider and adopt, reject or modify annexation of property, rights-of-way and streets pursuant to the provisions of Chapter 5.3: Zoning of Annexed Property.
- C. Consider and adopt, reject or modify amendments to the text of the Zoning Code pursuant to the provisions of Chapter 5.7: Amendments to Zoning Code or the Official Zoning Map.
- D. Consider and adopt, reject or modify amendments to the Official Zoning Map, pursuant to the provisions of Chapter 5.7: Amendments to Zoning Code Text or the Official Zoning Map.
- E. Hear and decide appeals from decisions of the Plan Commission on preliminary subdivision plats, pursuant to the provisions of Title 11: Subdivision Regulations.
- F. Consider and approve final subdivision plats and amendments thereto, pursuant to the provisions of Title 11: Subdivision Regulations.
- G. Exercise appeal authority as authorized by the Zoning Code.
- H. Confirm the appointment of members of the Plan Commission and Zoning Board of Appeals.
- I. Confirm the appointment of members of the Zoning Board of Appeals.
- I. Establish a schedule of fees and charges for the various applications and services provided pursuant to the Zoning Code.
- J. Revoke Conditional Use Permits pursuant to the provisions of Chapter 5.4: Use Permits.
- K. Hear and decide Requests for Reconsideration pursuant to the provisions of Chapter 5.210: Procedure for Appeals.
- L. Approve guidelines for the conduct of design review.

### 5.103 Plan Commission

The Plan Commission (Commission) is established pursuant to the Batavia City Code and the requirements of the Illinois Municipal Code.

A. **Meetings.** All meetings of the Commission shall be held according to a schedule established annually by the City Council, and at such other times as the Commission may determine. Except for executive sessions authorized by law, all meetings of the Commission shall be open to the public.

B. **Proceedings.** The minutes and records of all Commission proceedings shall be kept and filed as public records in the office of the City Clerk.

C. **Powers and Duties.** The Commission shall have the following powers and duties:

1. Recommend to the City Council a Comprehensive Plan and amendments thereto for the development and redevelopment of the City and contiguous unincorporated territory within the City of Batavia planning area and not included in any other municipality, and to promote the implementation of the Comprehensive Plan.
2. Annually review progress towards implementation of the Comprehensive Plan and recommend to the City Council changes desired due to new legislation, development trends and changing economic, social and environmental conditions.
3. Hold hearings, review and make recommendations to the City Council on applications to amend the Official Zoning Map and provisions of the Zoning Code for conditional use permits, and for preliminary plats of subdivision.
4. Initiate changes to the Official Zoning Map or text of the Zoning Code to insure conformance and consistency with the City's Comprehensive Plan.
5. Prepare and recommend to the City Council plans for specific improvements to implement the Comprehensive Plan, and review the annual Capital Improvement Plan.
6. Establish standards of design for subdivisions and for the resubdivision of unimproved land and of areas subject to redevelopment, including requirements for public and private streets, alleys, utility easements, stormwater management facilities, parks, natural areas, schools and other public lands.
7. Recommend to the City Council design guidelines for conducting design review.
8. Review and approve, approve with modifications and/or conditions, or deny applications for design review, pursuant to the provisions of Chapter 5.6: Design Review.
9. Conduct a Public Hearing, review and recommend approval, approval with modifications and/or conditions, or denial of Conditional Use applications, pursuant to the provisions of Chapter 5.4: Use Permits.
10. Revoke Administrative Use Permits pursuant to the provisions of Chapter 5.4: Use Permits.
11. Hear and decide appeals from decisions of the Planning and Zoning Officer on applications for Administrative Use Permits.
12. Review applications for Administrative Use Permits upon referral by the Planning and Zoning Officer pursuant to the provisions of Chapter 5.4: Use Permits.
13. Approve, approve with modifications and/or conditions or deny preliminary subdivision plats, pursuant to the provisions of Title 11: Subdivision Regulations.
14. Inform the community, other public agencies and private organizations about the activities of the Commission and the benefits of good planning.
15. Cooperate with municipal, county and regional planning commissions and other agencies or groups to further the local planning program and to assure harmonious and integrated planning for the area.
16. To exercise such other powers as State law permits, as directed by the City Council.

### **5.104 Zoning Board of Appeals**

The Zoning Board of Appeals of the City of Batavia (ZBA) is established pursuant to Illinois Compiled Statutes. A. **Creation, Membership and Officers.** The seven members of the Plan Commission not representing other government entities shall serve as the Zoning Board of Appeals. One of the members of the ZBA shall be named by the Mayor as chair at the time of his or her appointment. The chair shall serve for two years, at which time the ZBA shall elect a chair from its membership. The ZBA shall elect a vice-chair from its membership. Officers shall serve two year terms, and shall not succeed themselves.

B. **Meetings.** All meetings of the ZBA shall be held at such times as are necessary for the conduct of business. Except for executive sessions authorized by law, all meetings of the ZBA shall be open to the public.

C. **Proceedings.** The ZBA shall adopt rules and regulations to govern its proceedings. The minutes and records of all ZBA proceedings shall be filed as public records in the office of the City Clerk.

D. **Powers and Duties.** The ZBA has the following powers and duties:

1. Hear and approve, approve with modifications and/or conditions or deny applications for variances; and

2. Hear and decide appeals from a decision, determination, or interpretation made by the Planning and Zoning Officer and Community Development Director in the administration and enforcement of the Zoning Code pursuant to Section 5.210: Procedures for Appeals.

### **5.105 Community Development Director**

The Community Development Director (Director) administers the Community Development Department. The Director has the following powers and duties:

- A. Administer the Zoning Code.
- B. Provide recommendations to the City Council, appointed officials and City management on matters related to the physical development of the community.
- C. Administer the annexation process.
- D. Process, review, and make recommendations to the Plan Commission on applications for:
  1. Amendments to the Comprehensive Plan text or map.
  2. Conditional Uses.
  3. Design Review.
  4. Amendments to Zoning Code text or map.
  5. Preliminary Subdivision Plats.
- E. Perform administrative design review pursuant to Chapter 5.6: Design Review.
- F. Expand the notification area set forth in Section 5.205: Notice of Public Hearings.
- G. Determine if applications require a zoning amendment or amendment to the Comprehensive Plan.
- H. Process and make recommendations on appeals, pursuant to Chapter 5.210: Procedure for Appeals.
- I. Appoint and supervise the work of the Planning and Zoning Officer.
- J. Make recommendations to the Plan Commission on design guidelines.
- K. Make recommendations to the Zoning Board of Appeals.
- L. Waive the Proposed Development Plan Review process, pursuant to Section 5.201: Proposed Development Plan Review.
- M. Approve other applications and projects as authorized by the Zoning Code.

### **5.106 Planning and Zoning Officer**

The Planning and Zoning Officer is a member of the Community Development Department appointed by the Director. The Planning and Zoning Officer has the following powers and duties:

- A. Administer and enforce the provisions of the Zoning Code.
- B. Interpret the Zoning Code to members of the public and to other City departments.
- C. Review, approve, approve with modifications and/or conditions or deny applications for Administrative Use Permits, pursuant to the provisions of Chapter 5.4: Use Permits.
- D. Approve or deny applications for modifications to Administrative Use Permits, pursuant to the provisions of Chapter 5.4: Use Permits.
- E. Refer to the Plan Commission Administrative Use Permit applications determined to merit review by the Plan Commission.
- F. Initiate proceedings for the revocation of a Conditional Use, pursuant to the provision of Chapter 5.4: Use Permits.
- G. Make determinations regarding uses that are not specifically included in a permitted use classification in this Code.
- H. Make determinations regarding parking requirements for uses that are not specifically identified in this Code.
- I. Make determinations regarding Group Homes for the Handicapped, pursuant to the provisions of Section 4.504.F: Request for Accommodation.
- J. Make determinations regarding religious assembly uses, pursuant to the provisions of Section 4.505: Request for Determination.
- K. Make determinations regarding nonconforming uses, lots, parcels, structures, and signs, pursuant to the provisions of Section 4.603.B: Determination of Status.
- L. Modify or waive equipment cabinet screening requirements for Wireless Communication Facilities, pursuant to the provisions of Section 4.704.E: Equipment Cabinets and Buildings.
- M. Waive or modify standards for the establishment of Amateur Radio Facilities, pursuant to the provisions of Section 4.803.D.2 Waiver of Standards.

N. Waive or modify regulations in instances where the City's Building Code requires safety related improvements that exceed bulk limits.

### **5.107 Code Compliance Officer**

The Code Compliance Officer, pursuant to Chapter 2, Chapter III, Division 6 of the Batavia Municipal Code, is a member of the Building division. The Code Compliance Officer shall enforce the provisions of the Zoning Code, including conducting inspections and issuing citations as provided for by State law and local ordinance.

## **Chapter 5.2: Common Procedures**

### **Sections:**

5.201 Proposed Development Plan Review

5.202 Application Process

5.203 Fees and Fines

5.204 Neighborhood Meeting

5.205 Public Notice

5.206 Public Hearing Procedures

5.207 Findings Required

5.208 Administrative Procedures

5.209 Final Decisions

5.210 Procedures for Appeals

5.211 Procedure for Inspections

### **5.201 Proposed Development Plan Review**

A. **Proposed Development Plan Requirements.** Proposed Development Plan review is required for the following before an application will be accepted for processing:

1. Zoning applications.
2. Comprehensive Plan Land Use or Transportation and Circulation Map Amendments.
3. Preliminary subdivision plats.
4. Design Review.
5. New vertical structures for Wireless Communication Facilities.

B. **Optional Review.** An applicant for a project not requiring Proposed Development Plan review may request such review.

C. **Application Submittal.** A request for Proposed Development Plan review shall be filed with the Community Development Department on a form established by the Community Development Director.

D. **Proposed Development Plan Meetings.** City staff will meet with the applicant or representative to provide comments. Following the meeting, staff shall provide the applicant with a written summary of comments and place a copy of the comments in the project file.

E. **Fees.** There shall be no fee for the initial Proposed Development Plan review. Subsequent Proposed Development Plan reviews are subject to a fee established by City Council ordinance.

### **5.202 Application Process**

A. **Applications.** Completed applications shall be submitted to the Community Development Department on a form established by the Community Development Director. Any of the following persons or entities may submit an application:

1. The owner of the property.
2. An agent authorized by the owner.
3. A person acting under a purchase contract or exclusive option to purchase the property.

B. **Application Content.**

1. The Director shall specify the form and content of applications that are required pursuant to the Zoning Code. The Director may require additional supporting materials as part of the application, including but not limited to, legal descriptions, statements, photographs, plans, drawings, renderings, models, material samples and other items necessary to describe the existing situation and the proposed project.

2. The applicant shall be responsible for the accuracy and completeness of all information submitted to the City. The Director may waive the submission of specific material or information if he finds it is not needed to reach a decision on the application.

C. **Determination of Completeness.** After receiving an application accompanied by the required fee, the Director shall determine if the application is complete within 3 working days of the filing date. The Director shall notify the Applicant if the application is incomplete. If the application is incomplete, the City shall identify the items that must be filed to complete the application. After 30 days, incomplete applications may be discarded and the fee returned to the applicant.

D. **Concurrent Applications.** When a project requires approvals under more than one section of the Zoning Code, the individual applications may be accepted for concurrent review.

E. **Inspection and Reproduction of Public Records.** All applications that have been determined to be complete, including supporting materials, are public records. Public records may be reviewed and copied upon request during normal business hours. The applicant shall clearly label each page of copyrighted or trademarked materials, and such materials shall be available for public inspection, but copyrighted materials shall not be copied except as needed for City review.

F. **Inactive Applications.** All applications shall be actively pursued to a decision. If no applicant activity has occurred on an application for 180 days, the application shall be determined to be inactive. Thirty (30) days prior to that date the staff shall notify the applicant in writing that the application will become inactive. If the applicant requests in writing that the Director extend the 180-day period, such request shall be accompanied by an explanation for the period of inactivity. The Director may grant an extension for up to 180 days for good cause if there is a reasonable belief that the application will be actively pursued during the extension period. If an extension is not approved, the application will be deemed withdrawn and the file shall be closed.

### **5.203 Fees and Fines**

A. **Required Fees.** All applications required by the Zoning Code shall be accompanied by the required fees set by ordinance of the City Council. Applications shall not be deemed complete without payment of the required fee.

B. **Fee Refunds.** If an application is withdrawn prior to a decision, the applicant may be eligible for a refund of a portion of the fee. The amount of the refund shall be determined by the Director based on direct and indirect costs incurred by the City through the date of withdrawal. Fee refunds shall not be made for applications that have been denied or determined to be inactive.

C. **Fines.** All fines imposed by the City of Batavia for violations of a zoning ordinance, the Zoning Code, a conditional use ordinance, administrative approval, a variance, or a design review approval shall be established by either:

1. City Council ordinance, or
2. The Hearing Officer

### **5.204 Neighborhood Meeting**

A. **Neighborhood Meeting Requirements.** At the discretion of the Director, applicants may be required to conduct a neighborhood meeting. The purpose of the meeting is to inform neighborhood residents about the proposed project. Prior to scheduling Plan Commission review, the applicant shall provide a report to the City explaining the method of meeting notification, list of attendees and a record of the proceedings.

B. **Neighborhood Meeting Details.** The meeting shall be held at a location generally open to the public and convenient to the neighborhood where the project is proposed. The Director shall determine the method and extent of meeting notification. This may include sending notification to area residents and posting of a sign on the property. City staff may attend.

### **5.205 Public Notice**

Prior to consideration of any action for which the Zoning Code requires notice pursuant to this section, notice shall be given in compliance with the following requirements:

A. **Published Notice.** For Comprehensive Plan amendments, amendments to the zoning code text, amendments to a zoning ordinance or the Official Zoning Map, conditional use permits, zoning variances and appeals heard by the Zoning Board of Appeals, the Director shall prepare for publication a Notice of Public Hearing, to comply with the following requirements:

1. The notice shall be published at least 15 days prior to the date of the public hearing in a newspaper of general circulation within the City.

2. The notice shall include a general description of the proposed project or action and the property included in the application.
3. The notice shall specify the date, time, location, and purpose of the public hearing.
4. The notice shall state the location and times at which the complete application and project file may be viewed by the public.
5. The notice shall state that any interested person or authorized agent may appear and be heard.

**B. *Posting of Official Notice.*** For applications for Comprehensive Plan amendments, amendments to the zoning code text, amendments to a zoning ordinance or the Official Zoning Map, conditional use permits, preliminary subdivision plats, zoning variances and appeals heard by the Zoning Board of Appeals, the Director shall prepare a Notice of Public Hearing. The City shall post the notice at least 48 hours prior to the date of the public hearing at a public place within the City designated by City Council for posting of public notices.

**C. *Property Posting.*** For applications requiring public notice pursuant to 5.205.D and 5.205.E the applicant shall post a sign on the subject property informing the public. The sign shall be subject to the following requirements:

1. *Time Required.*

a. Public Hearings: The sign shall be posted at least 15 days prior to the date of the public hearing, and shall be maintained in its original condition and location until the hearing.

b. Public Meetings: The sign shall be posted at least 10 days prior to the date of the public meeting, and shall be maintained in its original condition and location until the meeting.

2. Posting, maintenance and removal of signs are the responsibility of the applicant. When a hearing or meeting is continued, the applicant shall update the sign to reflect the continued hearing or meeting date and time. Failure to remove the sign within 10 days of closing of the public hearing or meeting shall result in issuance of a notice of violation by the City.

3. Size, color, content, and location of public hearing or meeting signs shall be designated by the Director. The signs shall be lettered and posted so that the following are legible from adjacent public rights of way: "City of Batavia," the action requested, the date, time, and place of the hearing or meeting.

4. The applicant shall submit a signed affidavit of posting five business days prior to the public hearing or meeting.

5. Failure of the applicant to provide evidence of posting shall result in a postponement of the public hearing or meeting.

**D. *Mailed Notice of Public Hearing.*** For applications for Comprehensive Plan Land Use Map amendments other than the annual update, rezoning, conditional use permits, preliminary subdivision plats, zoning variances and appeals heard by the Zoning Board of Appeals, the Director shall prepare a Notice of Public Hearing. The notice shall be subject to the following requirements:

1. At least 15 days but not more than 30 days prior to the date of the public hearing, the applicant shall notify the following by first-class mail:

a. All property owners of record within 500 feet of the property, unless the Comprehensive Plan or other policy adopted by the City Council requires notification within a larger area.

b. The property owner if the application is initiated by a person other than the property owner.

c. All public agencies potentially affected by the action.

2. The Director may require the applicant to send notice to property owners beyond the notification area set forth in Section 5.205.D.1.a if he determines the potential impact of the project extends beyond the required notification boundary.

3. The notice shall be on a form prepared by the Director and completed by the applicant. A copy of the final notice shall be provided five business days prior to the public hearing.

4. The applicant shall submit a signed affidavit of mailing prior to the public hearing. Failure of the applicant to provide the affidavit shall result in a postponement of the public hearing.

**E. *Mailed Notice of Public Meeting.*** Applications for design review and preliminary subdivision plats of four or more lots shall require the Director to prepare a Notice of Public Meeting. The notice shall be subject to the following requirements:

1. At least 10 days but not more than 30 days prior to the date of the public meeting, the applicant shall notify the following by first-class mail:

a. All property owners of record within 500 feet of the property.

b. The property owner if the application is initiated by a person other than the property owner.

c. All public agencies potentially affected by the action.

2. The Director may require the applicant to send notice to property owners beyond the notification area set forth in Section 5.205.E.1.a if he determines the potential impact of the project extends beyond the required notification boundary.

3. The notice shall be on a form prepared by the Director and completed by the applicant. A copy of the final notice shall be provided five business days prior to the public meeting.

4. The applicant shall submit a signed affidavit of mailing prior to the public meeting. Failure of the applicant to provide the affidavit shall result in a postponement of the public meeting.

## **5.206 Public Hearing Procedures**

A public hearing held pursuant to the Zoning Code shall comply with the following procedures:

### **A. Public Hearing Testimony**

1. *Rights of All Persons.* Any interested person may appear at a public hearing and submit oral or written testimony related to the application, either individually or as a spokesman for a person, a group of people or an organization. Each person who appears at a public hearing shall sign in, identify himself, state an address and, if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.

2. *Time Limits.* The Mayor or Chair may establish reasonable time limits for individual testimony and may require that individuals with shared concerns select one or more spokespersons to present testimony on behalf of those individuals in order to minimize redundancy.

3. *Exclusion of Testimony.*

a. The Mayor or Chair may exclude testimony or evidence that is irrelevant, immaterial, or repetitious.

b. In the event any testimony or evidence is excluded as irrelevant, immaterial, or repetitious, the person offering such testimony or evidence shall have an opportunity to offer a written statement in regard to such testimony or evidence for the record. Such written statement shall be presented to the City Clerk within 3 working days of the hearing.

**B. Order of Proceedings at Public Hearing.** The order of the proceedings at the public hearing shall be as follows:

1. *Introduction of Item.* The Mayor or Chair shall introduce the item.

2. *Public Hearing.* The Mayor or Chair shall open the public hearing.

3. *Staff Report.* Staff shall present a report, which includes a written recommendation, and shall respond to questions from the decision-making body.

4. *Applicant Presentation.* The applicant shall present the project, indicate concurrence or disagreement with advisory body or staff recommendations, and respond to questions from the body.

5. *Public Testimony.* Testimony will be accepted from those requesting to be heard, subject to the limitations of Section 5.206.A: Public Hearing Testimony. Witnesses opposing the application shall have the right to cross examine the applicant, City staff, and witnesses for the applicant. The applicant shall have the right to cross examine City staff and witnesses opposing the application.

6. *Applicant Response.* The Mayor or Chair may request the applicant to respond to testimony or evidence presented by the public or staff.

7. *Staff Response.* Staff and the City Attorney may provide information or clarification regarding matters raised during the public hearing.

8. *Continuance of Public Hearing.* The body conducting the public hearing may by motion continue the public hearing to a fixed date, time, and place. In such event, no further notice need be given.

9. *Close of Public Hearing.* If not continued, the Mayor or Chair shall close the public hearing after approved motion to do so.

10. *Tabling.* The decision-making body conducting the public hearing may by motion table the public hearing. Any further public hearing on the matter shall not be conducted until notice is given in the same manner as for the initial hearing.

11. *Deliberation and Action.* The City Council, Zoning Board of Appeals, or Plan Commission, shall discuss the request and approve or recommend approval with or without modifications or conditions, or deny the request, unless it has been continued or tabled.

## **5.207 Findings Required**

When making a decision to approve, approve with modifications and/or conditions, revoke, or deny any rezoning, conditional use permit, administrative use permit, or variance, the decision-making body shall make findings of fact required by the Zoning Code. Findings shall be based upon consideration of the application, plans, testimony,

reports, and other materials that constitute the record and shall be in writing and included in the minutes. Draft findings shall be set forth in the staff report.

### **5.208 Administrative Procedures**

Any person may examine an application and materials submitted in support of or in opposition to an application in the Community Development Department offices during normal business hours. Copies of such materials shall be made available at a reasonable cost to be established from time to time through City Council ordinance. Staff reports to the Plan Commission, Zoning Board of Appeals, Community Development Committee, or City Council will not be made available to the public or applicants until they have been submitted to the body for which the reports were prepared.

### **5.209 Final Decisions**

A. **City Council.** A final decision of the City Council shall be upon passage and approval of the ordinance.

B. **Zoning Board of Appeals, Plan Commission and Administrative Actions.** A final decision on those matters for which they have final authority shall be on the day of the action.

### **5.210 Procedures for Appeals**

This section sets forth the procedures for appeals of decisions of the Plan Commission, Zoning Board of Appeals and administrative officers. Any decision within the authority of the decision-making body may be appealed, unless the Zoning Code provides that the decision is final.

#### **A. Rights of Appeal.**

Except as provided in this Section, appeals may be filed by:

1. The applicant on a matter that is the subject of a final decision by the Planning and Zoning Officer, Community Development Director, Plan Commission, or Zoning Board of Appeals.
2. The Mayor or a member of the City Council.
3. The City Administrator

B. **Filing of Appeal.** An appeal shall be filed with the Community Development Department on a form established by the Director. The appeal shall set forth the decision or decisions being appealed and the grounds upon which the appeal is based. The appeal shall be accompanied by any applicable fees.

C. **Time Limits for Appeal.** All appeals shall be filed within 10 calendar days of the final decision. This only applies to appeals filed pursuant to the City appeal process. Appeals to the Circuit Court of final decisions of the City Council, Plan Commission, or Zoning Board of Appeals shall be pursuant to applicable provisions of the Illinois Municipal Code (65 ILCS 5/1-1-1, et seq) and/or the Illinois Code of Civil Procedure (735 ILCS 5/1-101, et seq).

D. **Proceedings Stayed by Appeal.** The timely filing of an appeal shall stay all proceedings in the matter appealed.

E. **Transmission of Record.** The Director shall forward the appeal and all other documents that constitute the record to the decision-making body.

F. **Standards.** When reviewing any decision on appeal, the decision-making body shall use only the record of decision to determine if the decision shall be upheld, amended or reversed.

G. **Hearing Body Action.** Public hearings shall be conducted in accordance with procedures set forth in Section 5.206: Public Hearing Procedures. In addition, the decision-making body may remand the matter to the original decision-making body for reconsideration, for additional information or to cure a deficiency in the record or proceeding. The decision-making body shall render its decision within 30 days of the date the hearing is closed unless State law requires a shorter deadline.

### **5.210 Procedures for Inspections**

This section sets forth the procedures for inspections of construction that have received approval under this Title.

A. **Inspections Pursuant to Issuance of a City of Batavia Building Permit.** Inspections for construction pursuant to issuance of a City of Batavia building permit shall be scheduled through, and conducted as part of the building permit inspection process, set forth in Title 9: Building Regulations.

B. **Inspections of Construction Approved by Other Jurisdictions.** It shall be the responsibility of the applicant of the approved construction under this Title to schedule inspection of the property with the Planning and Zoning Officer in conjunction with the construction activity, before project completion. Any site conditions not in compliance shall be corrected according to conditions as approved under this Title. It shall be the responsibility of the same party to schedule re-inspection in the manner established herein.



## Chapter 5.7: Amendments to Zoning Code Text or the Official Zoning Map

### 5.701 Purpose and Applicability

The purpose of this chapter is to provide procedures consistent with applicable State requirements by which changes may be made to the text of the Zoning Code, other than a Conditional Use or a Planned Development overlay, and to the Official Zoning Map. This procedure shall apply to all proposals to change the text of the Zoning Code or to revise a zoning district classification or zoning district boundary line shown on the Official Zoning Map.

### 5.702 Initiation of Amendments

A. **City Council.** The City Council or the Community Development Committee may, by motion, direct the Plan Commission to analyze, conduct a hearing, and make a recommendation to the Council for an amendment to the text of the Zoning Code, or the Official Zoning Map.

B. **Plan Commission.** The Commission may initiate consideration of an amendment by a motion directing the Community Development Director to prepare an amendment to the text of the Zoning Code or the Official Zoning Map and to schedule a hearing on the proposed amendment pursuant to the procedures set forth in this chapter. Following the hearing the Commission may make a recommendation to the City Council for action.

C. **Community Development Director.** The Community Development Director may prepare an amendment to the text of the Zoning Code or the Official Zoning Map and to schedule a hearing on the proposed amendment pursuant to the procedures set forth in this Chapter.

D. **Owner Initiation.** A property owner or an agent authorized in writing by the property owner may apply for an amendment to the Official Zoning Map for his property.

E. **Text Amendment.** Text amendments may be initiated by any person having an interest in the proposed text amendment.

### 5.703 Procedures

A. **Pre-Application Review.** Other than amendments initiated by the City Council, Community Development Committee or Plan Commission, all applications to amend the text of the Zoning Code or the Official Zoning Map shall be subject to pre-application review pursuant to the procedures set forth in Chapter 5.2: Common Procedures.

B. **Application.** Other than amendments initiated by the City Council, Community Development Committee or Plan Commission, applications shall be filed in accordance with the application procedures set forth in Chapter 5.2: Common Procedures.

C. **Notification.** Public notification shall be provided in compliance with Section 5.205: Notice of Public Hearings. When the proposed amendment involves land that abuts other municipalities or unincorporated areas of Kane or DuPage Counties or a combination thereof, the Director shall send a copy of the Notice of Public Hearing to the planning agency of the adjacent governmental unit(s).

D. **Staff Report.** The Director shall prepare and transmit to the Plan Commission a staff report. A copy of the staff report shall be made available to the public and the applicant prior to the public hearing. The report shall include an evaluation of the consistency and conformance of the proposed amendment with:

1. the Land Use Map of the Comprehensive Plan,
2. the goals and policies of the various Elements of the Comprehensive Plan, and
3. any applicable specific or redevelopment plan adopted by the City Council.

E. **Plan Commission Hearing.** The Plan Commission shall conduct a public hearing on any application to amend the text of the Zoning Code, a zoning ordinance, or the Official Zoning Map as set forth in Chapter 5.2: Common Procedures.

F. **Plan Commission Action.** The Plan Commission shall render its decision in the form of a recommendation to the Community Development Committee. The Commission may recommend approval, approval with modification and/or conditions, or denial of the proposed amendment.

G. **Community Development Committee.** The Community Development Committee shall consider a draft ordinance and the recommendations of the Plan Commission and City staff, and may recommend approval, approval with modifications and/or conditions, or denial of the ordinance.

H. **Protest Procedures for Map Amendments.** If a written protest, including evidence of the certified mailing required below, is filed with the City Clerk no later than 1:00PM on the day of the City Council meeting when the

ordinance is to be considered, against any proposed amendment of the regulations or districts, signed and acknowledged by:

1. the owners of at least 20% of the frontage proposed to be altered; or
2. the owners of at least 20% of the frontage immediately adjoining or across an alley therefrom; or
3. the owners of the at least 20% of the frontage directly opposite the frontage proposed to be altered; and:

A copy of the written protest was served by the protestor or protestors on 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, and the City has been provided evidence of receipt of the mailing; then the amendment shall not be passed except by a favorable vote of two-thirds of the aldermen then holding office.

I. **City Council Action.** The City Council may approve, approve with modifications and/or conditions, or deny the ordinance.

J. **Conditions of Approval.** In approving an amendment to the Official Zoning Map, the City Council may impose conditions for the dedication of rights-of-way and easements related to the effect of the rezoning, establish a schedule for development, or impose other conditions permitted by law, and, if the amendment is for a Planned Development Overlay, may impose additional conditions necessary to ensure that the proposed amendment:

1. conforms to the Comprehensive Plan and any applicable redevelopment plan or specific plan adopted by the City Council; and
2. will not be detrimental to public health, safety, and general welfare of persons living or working in the surrounding area or to the general welfare of the City as a whole.

#### **5.704 Findings**

In considering amendments to the Official Zoning Map, the Plan Commission shall only recommend approval and the City Council shall only approve the proposed amendment ordinance if they find the following:

A. **Public Notice.** All required public notice has been conducted in accordance with applicable state and local laws;

B. **Public Meetings and Hearings.** All required public meetings and hearings have been held in accordance with applicable state and local laws.

C. **Conformance to the Comprehensive Plan.** The proposed amendment to the Official Zoning Map conforms to the goals and policies of the Comprehensive Plan and the Comprehensive Plan Land Use Map.

## Chapter 5.8: Amendments to the Comprehensive Plan Text or Map

### Sections:

#### 5.801 Purpose

The purpose of this chapter is to provide procedures by which changes may be made to the text or map of the Comprehensive Plan. The Comprehensive Plan is a comprehensive long-range guide for orderly growth, development and redevelopment in the community.

#### 5.802 Initiation of Amendments

A. **City Initiated Amendments.** The City Council, the Community Development Committee of the City Council, the Plan Commission, or Community Development Director may initiate an amendment to the map or text of the Comprehensive Plan. An amendment shall be initiated by motion, except those initiated by the Community Development Director.

B. **Property Owner Initiated Amendments.** A property owner or an agent authorized in writing may apply for an amendment to the map or text of the Comprehensive Plan governing the property.

C. **Timing.** Applications for Comprehensive Plan amendments may be filed at any time.

#### 5.803 Procedures

A. **Pre-Application Review.** All applications to amend the map or text of the Comprehensive Plan shall be subject to pre-application review pursuant to the procedures set forth in Chapter 5.2: Common Procedures.

B. **Application.** Applications shall be filed in accordance with the application procedures set forth in Chapter 5.2: Common Procedures.

C. **Public Notice.** Public notification shall be provided in accordance with Section 5.205: Notice of Public Hearings.

D. **Notice to Other Jurisdictions.** Notice of amendments to the Comprehensive Plan shall be given to other affected jurisdictions within 1000 feet of any property that is the subject of a Comprehensive Plan amendment application.

E. **Staff Report.** The Director of Community Development shall prepare a staff report and transmit it to the Plan Commission. *A copy of the staff report shall be made available to the public and the applicant prior to the public hearing. The report shall include a determination of whether the proposed change conforms to the goals and policies of each Element of the Plan.* A report for an amendment to the Land Use Map shall also include an evaluation of the ability of the City's infrastructure to serve development of the property if the Official Zoning Map were to be amended as proposed.

F. **Plan Commission Hearing.** The Plan Commission shall conduct a public hearing for Comprehensive Plan amendments. The Plan Commission shall conduct the hearing as set forth in Chapter 5.2: Common Procedures.

G. **Plan Commission Action.** The Plan Commission may recommend approval, approval with modifications or denial of the proposed amendment to the Community Development Committee.

H. **Community Development Committee Action.** The Community Development Committee shall consider the recommendations of the Plan Commission and staff, public testimony, and shall recommend an ordinance approving, approving with modifications or denying the proposed amendment to the City Council.

I. **Council Action.** The City Council may approve, approve with modifications or deny the application by the adoption of an ordinance.