
**VILLAGE OF SUGAR GROVE
BOARD REPORT**

TO: VILLAGE PRESIDENT & BOARD OF TRUSTEES
FROM: WALTER MAGDZIARZ, COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: ORDINANCE: AMENDING TITLE 2 (BOARDS AND COMMISSIONS)
AGENDA: SEPTEMBER 5, 2023 VILLAGE BOARD MEETING
DATE: SEPTEMBER 1, 2023

ISSUE

Should the Village Board adopt procedures governing public hearings required by the Village Code.

DISCUSSION

Public comments are an essential component of local government meetings. The Illinois Open Meetings Act (OMA) establishes a statutory right to public comment during public meetings while public hearings are statutorily required for zoning issues and for other items such as Tax Increment Financing (TIF) districts. While it is important for public comments to be heard, to allow for effective and efficient public meetings, guidelines may be established to govern how those comments are given.

At the July 18, 2023, Village Board meeting, staff presented proposed updates to the Public Comment guidelines during Board meetings and guidelines for Public Hearings on zoning issues. Following Board discussion, staff was directed to get input from the Planning Commission concerning the proposed public hearing guidelines.

Village staff reviewed the proposed guidelines with the Planning Commission at their August 16 meeting. Aside from a few requested changes with the draft meeting handbook, Commissioners generally welcomed the proposed structure for public hearing. Of note, the Planning Commissioner training session presented by the Illinois American Planning Association in July addressed the conduct of a public hearing and was not materially different from the proposed public hearing guidelines.

COSTS

There are attorney's fees and codification costs associated with this item.

ATTACHMENTS

- Ordinance Amending Title 2 (Boards and Commissions)

RECOMMENDATION

That the Board approve an Ordinance Amending Title 2 (Boards and Commissions).



**VILLAGE OF SUGAR GROVE
KANE COUNTY, ILLINOIS**

Ordinance No. 2023-0905A

**An Ordinance Amending Title 2 (Boards and Commissions) of the Village Code
(Public Hearing Rules & Procedures)**

Adopted by the
Board of Trustees and President of the Village of Sugar Grove
this 5th day of September 2023

Published in pamphlet form
by authority of the Board of Trustees of the Village of Sugar Grove, Kane County, Illinois
this 5th day of September 2023

ORDINANCE NO. 2023-0905A

An Ordinance Amending Title 2 (Boards and Commissions) of the Village Code (Public Hearing Rules & Procedures)

WHEREAS, the Village of Sugar Grove is not a home rule municipality within Article VII, Section 6A of the Illinois Constitution, and accordingly, acts pursuant to the powers granted to it under 65 ILCS 5/1-1 *et seq.*; and,

WHEREAS, the corporate authorities of the Village of Sugar Grove have proposed an amendment to the Village of Sugar Grove Municipal Code; and,

WHEREAS, the corporate authorities of the Village of Sugar Grove deem it necessary, desirable, and in the Village's best interest to amend the Village of Sugar Grove's Municipal Code to update its regulations regarding the rules and procedures for public hearings.

NOW THEREFORE BE IT ORDAINED by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois, as follows;

SECTION ONE: VILLAGE CODE AMENDMENT

That Chapter 1 of Title 2 (Boards and Commissions) of the Village Code of Ordinances be amended by adding thereto Section 2-1-12 substantially in the form and substance as found in **Exhibit A**, attached hereto and made a part hereof by this reference.

SECTION TWO: GENERAL PROVISIONS

REPEALER: All ordinances or portions thereof in conflict with this annexation ordinance are hereby repealed.

SEVERABILITY: Should any provision of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and effect the same as if the invalid provision had not been a part of this ordinance.

EFFECTIVE DATE: This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois, this 5th day of September 2023.

ATTEST:

Jennifer Konen,
President of the Board of Trustees

Alison Murphy,
Village Clerk

	Aye	Nay	Absent	Abstain
Trustee Matthew Bonnie	_____	_____	_____	_____
Trustee Sean Herron	_____	_____	_____	_____
Trustee Heidi Lendi	_____	_____	_____	_____
Trustee Sean Michels	_____	_____	_____	_____
Trustee Michael Schomas	_____	_____	_____	_____
Trustee James White	_____	_____	_____	_____

EXHIBIT A

2-1-12 Public Hearing Rules and Procedures

Public hearings required by Title 11 shall be conducted in accordance with the following rules and procedures.

A. Public Hearing Conduct

All individuals participating or attending a public hearing shall conduct themselves in a courteous and civil manner. No applause, cheering, or other distractions shall be permitted. The Chairman shall take such actions as needed to maintain an orderly and civil hearing including closing the meeting, clearing the hearing room and calling the public in one at a time to testify.

B. Notice Confirmation

Prior to commencement of the hearing, Village staff shall confirm that proper notice of the hearing was given in accordance with the provisions of the Illinois Municipal Code and the Sugar Grove Zoning Ordinance, and that documentation of such notice is included in the case file for the Petition.

C. Introduction by the Chairman

The Chairman will begin each public hearing by announcing the name of the petitioner (hereinafter "Petitioner") and the nature of the request. An oath will be administered to all persons intending to testify during the course of the public hearing.

D. Order of Business

The order of business for a public hearing shall be as follows:

1. Village Staff Presentation
2. Petitioner Presentation
3. Impacted Party Presentation
4. Cross Examination of Petitioner
5. Cross Examination of Impacted Party
6. Public Comment
7. Petitioner Response
8. Commission Discussion and Public Hearing Closure

E. Village Staff Presentation

Village staff will provide a presentation summarizing the nature of the Petitioner's request, basic facts of the case, the staff recommendation, and any additional information that is relevant to the Planning Commission/Zoning Board of Appeals' consideration of the case. Staff shall also be present to respond to inquiries by the Planning Commission/Zoning Board of Appeals, Petitioner, and public regarding the facts of the case of the provisions of the Village Code.

F. Petitioner's Presentation

The Petitioner shall be allocated time to present the Petition including testimony of witnesses and other evidence as are relevant to the case. The Chairman shall allow the Petitioner reasonable time to make this presentation without interruption; provided, however, that questions by the Chairman or other members of the Planning Commission/Zoning Board of Appeals may be permitted if necessary to aid the Planning Commission/Zoning Board of Appeals or public in understanding a particular aspect of the presentation. The provisions of Section 2-1-12-O (Evidence) shall apply to the Petitioner's presentation.

G. Impacted Party Presentation

1. The Chairman will begin the impacted party presentation forum by advising all impacted parties of the following:
 - a. The amount of time permitted for impacted party testimony, comment, and general questions;
 - b. that all speakers state their names and addresses before addressing the Commission;
 - c. that impacted parties are to avoid repetitive comments, testimony, and general questions;
 - d. that impacted parties are encouraged to appoint a person to speak on behalf of a group; and
 - e. that all information presented to the Planning Commission/Zoning Board of Appeals is under oath.
2. Impacted Party Defined. An impacted party is defined as a person who received a personal notice addressed to them as required under the Zoning Ordinance about the public hearing or as determined by the Chairman. A person wishing to exercise this right must be prepared to demonstrate to the satisfaction of the Commission that they are the person to whom the notice was addressed or that they reside at the address on the notice.
3. An impacted party may present testimony of witnesses and other evidence regarding the petition. The Planning Commission/Zoning Board of Appeals should allow persons to make this presentation without interruption, except for those questions allowed by the Chairman that may be immediately necessary to aid the Planning Commission/Zoning Board of Appeals or the public in understanding a particular aspect of the presentation.
4. All impacted parties will be collectively allowed an equal amount of time as was provided to the petitioner for its full presentation.
5. An impacted party is allowed to speak one time, unless the Chairman determines that allowing an impacted party to address the Planning Commission/Zoning Board of Appeals an additional time will contribute new testimony or other evidence.
6. School District Right: Pursuant to 65 ILCS 5/11-13-20 any school district within which the property in issue, or any part thereof, is located shall have the right to appear and present evidence.

H. Cross Examination Rights

1. Impacted Parties. An impacted party has the right to cross-examine petitioners and petitioners' witnesses as it pertains to the witnesses' testimony.
2. Petitioners. A petitioner has the right to cross-examine any witness offered in opposition to their petition.

3. School District. 65 ILCS 5/11-13-20 any school district within which the property in issue, or any part thereof, is located shall have the right to cross examine the petitioners and their witnesses.
4. General Public. Any other party who does not otherwise have a right to cross- examination under these rules must file a formal request to do so at least one (1) day in advance of the scheduled public hearing date or continuation thereof. The request must be made in writing and be submitted to the Community Development Department. The Planning Commission/Zoning Board of Appeals shall determine whether their request to cross-examine witnesses has been granted or denied at the public hearing. No such request will be unreasonably denied.
5. If time allows, the Chairman, at his/her discretion, may allow individuals that submitted questions for the petitioner, but did not sign-up for cross examination, to cross examine the petitioner. Individuals are encouraged to submit questions for the petitioner no later than one (1) day prior to the public hearing to the Community Development Department.

I. Cross Examination Content Requirements

1. Matters that are subject to cross-examination must be factual and not merely matters of taste or personal opinion.
2. The cross-examination must help simplify otherwise complex issues before the Planning Commission/Zoning Board of Appeals.
3. The cross-examination must relate to the factors to be considered by the Planning Commission/Zoning Board of Appeals in making its recommendation.

J. Cross Examination - Chairman Authority

1. The Chairman may restrict the scope of cross-examination to the testimony offered.
2. The Chairman may specify which issues are considered relevant to the factors the Planning Commission/Zoning Board of Appeals must use to make its recommendation and limit cross examination accordingly.
3. The Chairman shall determine whether a party conducting a cross examination is eliciting relevant information and may direct a cross-examiner to adjust questions accordingly.
4. Cross-examination designed to elicit extraneous, irrelevant, or repetitive testimony may be ruled out of order by the Chairman and may result in disqualification of the person from further cross-examination of the witness.

K. Public Comment

Members of the public who are interested in the subject matter of the Petition, other than Impacted Parties as defined herein, shall be allocated time to speak. Any individual providing public comment shall address the Planning Commission/Zoning Board of Appeals from the podium and state their name for the record. Speakers shall limit their remarks to no more than three (3) minutes unless additional time is granted by the Chairman. Individuals providing public comment shall avoid repetitive comments, testimony and questions. Individuals speaking on the same issue are encouraged to coordinate testimony to the extent possible in order to promote an efficient hearing, including selection of a representative to speak on behalf of a group where appropriate.

L. Petitioner Response

The Chairman shall allow the petitioner a reasonable time to respond to the testimony and comments presented.

M. Commission Discussion

1. During the Planning Commission/Zoning Board of Appeals' discussion, members of the Planning Commission/Zoning Board of Appeals may direct additional questions to the petitioner, witnesses for the petitioner, or members of the public who testified. The petitioner, witnesses for the petitioner, or members of the public or their attorneys may not address the Planning Commission/Zoning Board of Appeals during this portion of the meeting without the consent of the Chairman.
2. Based on the discussions, the Commission may:
 - a. request the petitioner, a member of the public, Village staff, and/or the Village Attorney to provide new or additional information and continue the hearing to a date certain; or
 - b. continue the hearing to a date certain for any reason deemed appropriate by the Planning Commission/Zoning Board of Appeals; or
 - c. motion to move to the regular meeting and close the public hearing.

N. Subpoena of Witnesses

There is no automatic right to request the issuance of a subpoena for any witness. The Chairman may, in accordance with state law, compel the attendance of a witness if the following exists:

1. a proper showing that the testimony to be elicited is relevant to the factors under consideration by the Planning Commission/Zoning Board of Appeals;
2. an allegation of some special interest beyond that of the general public; and
3. that the evidence to be elicited from the subpoenaed witness cannot be obtained through some other document or testimony.

Any person who satisfies the requirements for issuance of a subpoena will be completely responsible for presenting the witness before the Planning Commission/Zoning Board of Appeals, including, without limitation all costs, attorney fees, and enforcement of the subpoena. A subpoena may not be issued to obtain documents or other non-testimonial evidence. Failure of a subpoenaed witness to appear shall not result in a delay of the proceedings before the Commission.

O. Evidence

The Planning Commission/Zoning Board of Appeals is not bound by strict rules of evidence. The Chairman shall rule on all questions related to the admissibility of evidence presented by the Petitioner or any Impacted Party, provided that the Chairman's ruling may be overruled by a majority of the Planning Commission/Zoning Board of Appeals members present. Submission of written documentation of any kind which is relevant to the Petition shall be filed with the Community Development Department the Friday preceding a meeting to assure that the Planning Commission/Zoning Board of Appeals will have adequate time to consider the document or communication prior to the meeting. Said documents and communications shall be made part of

the case packet and posted on the Village's website if possible. At the Chairman's discretion, documents and communications may be filed after this date and time; however, the Chairman may choose to continue the hearing, in whole or in part, based upon the late submission of materials.

An individual presenting information to the Planning Commission/Zoning Board of Appeals as an expert witness shall provide the Planning Commission/Zoning Board of Appeals with his or her name, the Village, county and state (if other than Illinois) where he or she resides, the address of the business which he or she represents, and a description of the area of knowledge or expertise of such witness. It is preferred that such witness register with the Community Development Department in advance of the meeting and provide Community Development staff with a business card and/or curriculum vitae. Such witness shall be allowed to testify subject to the conditions set forth herein or as may be reasonably imposed by the Chairman.

P. Recommendation

After the public hearing is closed the Chairman will entertain a motion to recommend approval, denial or modification of the application, followed by a vote. The Planning Commission/Zoning Board of Appeals is allowed up to 120 days to make its recommendation following the close of the public hearing on a proposed special use and up to 45 days for map amendments. In most cases, however, the Planning Commission/Zoning Board of Appeals recommendation is made on the same evening of the public hearing.

The Planning Commission/Zoning Board of Appeals may recommend approval of a petition subject to any number of conditions, restrictions or requirements it deems necessary to assure compliance with the Village ordinances or to address issues and concerns raised by the public.

Q. Continuation of the Meeting

In the event a public hearing or any other business on the agenda is continued or the Planning Commission/Zoning Board of Appeals recommendation is delayed, the Chairman will announce the date, time and location of the continuation of the hearing or the Planning Commission/Zoning Board of Appeals' deliberations.