

ORDINANCE NO. F-0945**AN ORDINANCE AMENDING SECTION 5.10B OF THE
"WHEATON ZONING ORDINANCE"**

WHEREAS, the Illinois Supreme Court, in the case of *Klaeren v. Village of Lisle*, 202 Ill. 2d 164, 269 Ill. Dec. 426 (2002) has ruled that Special Use Permits Hearing are subject to Certiorari Review standards; and

WHEREAS, the Mayor and Wheaton City Council desire to establish post *Klaeren*, *Supra* hearing procedures consistent with the *Klaeren* requirements and for purposes of creating a proper record for Certiorari Review; and

WHEREAS, *Klaeren*, *Supra* necessitates the amendment of Section 5.10(c) of the Wheaton Zoning Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Wheaton, DuPage County, Illinois, that Section 5.10(c) entitled "Processing, Notice and Hearing" of the Wheaton Zoning Ordinance is hereby repealed and rescinded in its entirety and replaced with a new Section 5.10C to be entitled "Processing, Notice and Hearing" which shall provide as follows:

SECTION 1:

SECTION 5.10C. Processing, Notice and Hearing. Applications for Special Use Permits shall be submitted to the Director of Zoning and Economic Development. The Director of Zoning and Economic Development shall review the application to determine whether it contains such basic information as is required by the standards set forth in Section 5.10D of this Ordinance. Upon determination that the application provides such information the Director of Economic Development and Zoning shall notify the applicant to proceed with notice of public hearing in the same manner as provided for amendments to this Ordinance. Upon proper notice, the Planning and Zoning Board shall conduct such public hearing or hearings as may be required and necessary to present recommendations to the City Council. The burden of establishing that the proposed Special Use Permit satisfies the standards of Section 5.10B of this Ordinance shall be upon the applicant. The public hearing shall be transcribed at the applicant's expense. The applicant shall prepay all estimated costs of the public hearing. The amount of the hearing deposit shall be that amount estimated by the Director of Economic Development/Zoning Director. Any funds remaining, after payment for the costs of the public hearing, shall be returned to the applicant.

SECTION 2: All ordinances and parts of ordinances in conflict with or inconsistent with the provisions of this ordinance are hereby repealed to the extent of any such conflict or inconsistency.

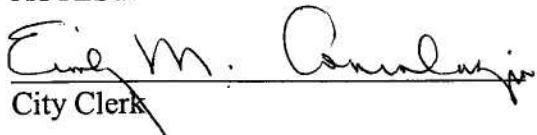
SECTION 3: That if any part or portion of this ordinance shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of this ordinance.

SECTION 4: This ordinance shall become effective after its passage, approval and publication in pamphlet form in the manner described by law.



James Carr
Mayor

ATTEST:



Cindy M. Annunziato
City Clerk

Roll Call Vote:

Ayes: Councilman Mouhelis
Councilman Bolds
Councilwoman Corry
Mayor Carr
Councilwoman Johnson
Councilman Mork

Nays: None

Absent: Councilman Johnson

Motion Carried Unanimously

Passed: September 20, 2004
Published: September 21, 2004