

### Dates to Remember for Special Use Permit

1. \_\_\_\_\_ - by Noon  
Last day to have completed special use permit application, building permit application with 8 ½" x 11" site plan, \$200.00 filing fee, and Buffered Parcels Report from St. Clair County Mapping & Platting listing the legal property owners and mailing addresses of the parcels within 250 feet of the property in to the Community Development Department. Please also provide proof of applicant's property interest if the applicant is not the property owner. It is recommended that you provide a copy of your Notice of Intent for review at this time.
2. \_\_\_\_\_ - to \_\_\_\_\_ -  
"Window" for petitioner to send "Notice of Intent" notices to owners within 250 feet of parcel, either in person to owner **OR** by Certified Mail Return Receipt Requested. See Section 158.256 and sample letter attached for notice requirements.
4. \_\_\_\_\_ (Wednesday before the hearing) - **To Vicki:**
  - Copy of letter **AND** all green Certified Mail Return Receipts (or envelope returned from Post Office as refused) with receipt showing date received at Post Office attached to each one – **OR** - original letter signed by owners with date received if presented in person.
  - Statement of Compliance certifying that you have done all that is required of you as outlined in Chapter 158 Articles 13 and 14 of the Code of Ordinances.
5. \_\_\_\_\_ -  
Public Hearing with Planning Commission (City Council Chambers @ 6:00 p.m.)

If you have any questions regarding your petition, please do not hesitate to contact our office at (618)624-4500, Extension 4. You may wish to call our office to ensure either the Planner or Vicki will be available when you come in to file.

A copy of the agenda will be mailed to you Friday before the public hearing. The agenda will serve as notice that your petition will be discussed that night. You will want to attend that meeting or have a representative present in your place.

The Planning Commission will vote at the end of the public hearing. Within 21 days after the Planning Commission's decision, the City Council, upon majority vote, may exercise the power of review of any Planning Commission decision on an application for a special use permit.; or per Section 158.09(E)(4): "Unless the City Council exercises its power of review of a special use permit, the decision of the Planning Commission shall become effective after 21 days following its decision."

## PETITION FOR SPECIAL USE PERMIT

Community Development Department, O'Fallon City Hall  
 255 South Lincoln Avenue, 2<sup>nd</sup> Floor  
 O'Fallon, IL 62269 Phone (618) 624-4500 Ext. 4

Special Use Permit No. \_\_\_\_\_  
 Date: \_\_\_\_\_

(Do not write in this space -- For office use only)

Date set for hearing: \_\_\_\_\_

Perm. Parcel No. \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Date hearing held: \_\_\_\_\_

Fee paid: \$ \_\_\_\_\_ Date: \_\_\_\_\_

Newspaper: \_\_\_\_\_

Building Permit App. No. \_\_\_\_\_

Recommendation of Planning Commission:

Action by City Council:

( ) Denied

( ) Denied

( ) Approved

( ) Approved

( ) Approved by no action taken

( ) Approved with modification

( ) Approved with modification

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**INSTRUCTIONS TO APPLICANTS:** All information required by the application must be completed and submitted herewith. Applicants are encouraged to visit the Community Development Department for any assistance needed in completing this form.

1. Name of property owner(s): \_\_\_\_\_ Phone: \_\_\_\_\_

Mailing address: \_\_\_\_\_ E-Mail: \_\_\_\_\_

2. Applicant's name: \_\_\_\_\_ Phone: \_\_\_\_\_

Mailing address: \_\_\_\_\_ E-Mail: \_\_\_\_\_

3. Property interest of applicant (Owner, Contractor, etc.): \_\_\_\_\_

4. With respect to any portion of these premises, a previous appeal or petition for variance was made:

( ) No. ( ) Yes. If "yes", list all previous appeals and/or petitions, giving dates:

\_\_\_\_\_

\_\_\_\_\_

5. Address of property: \_\_\_\_\_

Present use of property: \_\_\_\_\_ Parcel (Tax) ID #: \_\_\_\_\_ Zone District: \_\_\_\_\_

6. Check one of the following where applicable:

( ) Public service building; specify type: \_\_\_\_\_

( ) Public utility building or structure; specify type: \_\_\_\_\_

( ) Planned single-family residential development \_\_\_\_\_

( ) Planned multiple-family residential development \_\_\_\_\_

( ) Planned mobile home park development \_\_\_\_\_

( ) Planned business center development \_\_\_\_\_

( ) Other planned development; specify: \_\_\_\_\_

( ) Use variance; specify type of use proposed: \_\_\_\_\_

7. All applications for special use permit shall file a site plan in accordance with Chapter 158 Article 3 of the O'Fallon Code of Ordinances. The following additional information shall be provided:

- Number of proposed dwelling units, if any \_\_\_\_\_ Number of proposed structures \_\_\_\_\_
- Number of existing dwelling units, if any \_\_\_\_\_ Number of existing structures \_\_\_\_\_
- Number of proposed dwelling units per structure, if any \_\_\_\_\_
- Number of existing dwelling units per structure, if any \_\_\_\_\_
- Acreage devoted to each type of proposed use \_\_\_\_\_
- Acreage devoted to each type of existing use \_\_\_\_\_
- Number of proposed off-street parking spaces \_\_\_\_\_
- Number of existing off-street parking spaces \_\_\_\_\_
- Provide other such pertinent information as may reasonably be required to fully describe the proposed development. (Attachments may be used.)

8. A special use permit is requested for the property described above in conformity with the documents submitted herewith.

I certify that all of the above statements and the statements contained in any papers or plans submitted herewith are true and accurate.

I consent that the entry in or upon the premises described in this application by any authorized official of O'Fallon, Illinois for the purpose of inspecting or of posting, maintaining, and removing such notices as may be required by law.

Date: \_\_\_\_\_

Signature of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

Signature of Owner: \_\_\_\_\_

## APPLICATION FOR COMMERCIAL BUILDING PERMIT / CERTIFICATE OF ZONING COMPLIANCE

Community Development Department, O'Fallon City Hall  
 255 South Lincoln Avenue, 2<sup>nd</sup> Floor  
 O'Fallon, IL 62269 Phone (618)624-4500 x4

(Do not write in this space -- For office use only)

Date: \_\_\_\_\_ Zoning fee paid to City Clerk \_\_\_\_\_  
 ( ) Permit issue No. \_\_\_\_\_ \$ \_\_\_\_\_ Date: \_\_\_\_\_  
 ( ) Permit denied \_\_\_\_\_ If denied, cause of denial: \_\_\_\_\_  
 ( ) Application appealed No. \_\_\_\_\_  
 Variance or Special Permit No. \_\_\_\_\_

\* \* \* \* \*

**INSTRUCTIONS TO APPLICANTS:** All information required by the application must be completed and submitted herewith. Applicants are encouraged to visit the Community Development Department for any assistance needed in completing this form. Upon completion of any proposed structure, a "Certificate of Occupancy" may be granted upon request.

- Name of property owner(s): \_\_\_\_\_ Phone: \_\_\_\_\_  
 Complete mailing address: \_\_\_\_\_ E-Mail: \_\_\_\_\_
- Applicant's name: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Complete mailing address: \_\_\_\_\_ E-Mail: \_\_\_\_\_
- Property interest of applicant (Owner, Contractor, etc.): \_\_\_\_\_
- Design professional name: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Contact name: \_\_\_\_\_ E-Mail: \_\_\_\_\_  
 Design professional complete mailing address: \_\_\_\_\_
- Property address (9-1-1 approved) of proposed construction: \_\_\_\_\_  
 Name and description of proposed type of business: \_\_\_\_\_
- Legal description (parcel ID# and lot # & subdivision name): \_\_\_\_\_
- Proposed construction or use: ☐ Structural ☐ Electrical ☐ Plumbing ☐ HVAC  
 ( ) New building (type of structure): \_\_\_\_\_  
 ( ) Tenant finish  
 ( ) Addition or alteration of existing building(s) (explain): \_\_\_\_\_  
 Cost of improvement: \$ \_\_\_\_\_ Flood zone: \_\_\_\_\_ Zone district: \_\_\_\_\_  
 Is proposed construction in an approved Planned Development? ☐ Yes ☐ No  
 Existing 2006 ICC Building Code Use Group: \_\_\_\_\_ Existing 2006 ICC Building Code Type of Construction: \_\_\_\_\_  
 Proposed 2006 ICC Building Code Use Group: \_\_\_\_\_ Proposed 2006 ICC Building Code Type of Construction: \_\_\_\_\_  
 Total lot area in sq. ft.: \_\_\_\_\_ sq. ft. Total building gross area (all floors): \_\_\_\_\_ sq. ft.  
 Total lot area covered by all buildings (after construction): \_\_\_\_\_ sq. ft.  
 Percent of lot coverage (lot area covered by all buildings divided by total lot area): \_\_\_\_\_

(Over)

8. A site plan (drawn to approximate scale) shall be attached showing the following:
- Dimensions of the zoning lot;
  - Dimensions and use of all buildings;
  - Distance of each building from all zoning lot lines;
  - Distance of principal building from principal buildings on adjacent lot(s);
  - Location of driveways and off-street parking spaces (show distance from lot lines and overall dimensions);
  - Location of all easements (drainage and utility);
  - Any additional information as may be reasonably required by the Community Development Department and applicable requirements of the Code of Ordinances, Section 158.036(D).
9. Names, contact person, complete mailing address, and phone number of the following sub-contractors must be provided prior to issuance of the building permit:
- General Contractor: \_\_\_\_\_  
 \_\_\_\_\_ E-Mail: \_\_\_\_\_
  - Electrical Contractor: \_\_\_\_\_  
 \_\_\_\_\_ E-Mail: \_\_\_\_\_
  - HVAC / Mechanical Contractor: \_\_\_\_\_  
 \_\_\_\_\_ E-Mail: \_\_\_\_\_
  - Plumbing Contractor (please include IL State License #): \_\_\_\_\_  
 \_\_\_\_\_ E-Mail: \_\_\_\_\_
  - Fire Sprinkler Contractor: \_\_\_\_\_  
 \_\_\_\_\_ E-Mail: \_\_\_\_\_
10. Contact the Community Development Department at (618)624-4500 x 4, to determine **building plan** and **civil plan** requirements for building permit application submittal. Once the **building** plans are approved and prior to issuance of the building permit, submittal of three complete sets of approved **building** plans will be required. One "Approved by the City of O'Fallon" stamped set of building plans will be returned at the time of building permit issuance.
11. Application is hereby made for a Temporary Certificate of Zoning Compliance, as required under the Code of Ordinances of the City of O'Fallon, Illinois, for the erection, moving or alteration, and use of buildings and premises. In making this application the applicant represents all of the above statements and any attached maps and drawings to be a true description of the proposed new or altered uses and/or buildings. The applicant agrees that the permit applied for, if granted, is issued on the representations made herein and that any permit issued may be revoked without notice on any breach of representation or conditions. It is understood that any permit issued on this application will not grant right of privilege to erect any structure or to use any premises described for any purpose or in any manner prohibited by the Code of Ordinances, or by other ordinances, codes or regulations of O'Fallon, Illinois.
12. The removal of any material containing asbestos must comply with Illinois EPA Asbestos Unit guidelines. Visit <http://www.epa.state.il.us/air/asbestos/> or call 217-524-0229 for further assistance.

(Applicant) \_\_\_\_\_

#### TEMPORARY CERTIFICATE OF ZONING COMPLIANCE

The plans and specifications submitted with this Application are in conformity with the zone district requirements applicable to the subject property. Changes in plans or specifications shall not be made without written approval of the appropriate city officials. Failure to comply with the above shall constitute a violation of the provisions of the City of O'Fallon Code of Ordinances.

Dated: \_\_\_\_\_, \_\_\_\_\_ Community Development Department, City of O'Fallon, Illinois

For office use only: ☐ Flood Plain ☐ Overlay Restrictions

## SAMPLE NOTICE OF INTENT

[Date letter is mailed or delivered]

[Applicant name]

[Applicant address]

Dear [Property Owner's Name Here],

Please be advised that I/we have submitted a petition for a special use permit to the City of O'Fallon Planning Commission on [date petition submitted]. The permit is to allow [describe the reason for the special use permit variance (i.e. for outdoor seating with alcohol service; drive thru service, etc...)]

The special use permit is for the property address of [subject property address], O'Fallon, Illinois.

The name and address of the property owner for this property is [name and mailing address of the property for the permit].

This letter is being sent to you as required by ordinance to the property owners within 250 feet of the permit requested property.

If you have any questions regarding this special use permit petition, please contact the applicant at (###)###-####, or the O'Fallon Community Development Department at (618)624-4500 ext. 4.

Sincerely,  
XXXXX

[Applicant's name and signature]

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### FOR HAND-DELIVERED LETTERS:

*If the letter is being hand-delivered to the property owner, please provide them with 2 letters. One they sign and date as received and return to you, the other they keep for their records. Put the following on the hand-delivered letters:*

I/We hereby acknowledge receipt of the above notification of a Petition for Special Use Permit initiated by [Applicant name here].

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Property Owner's Signature, Their Property Address and Date

**[Date]**

This letter is to certify that I/we, **[applicant(s)]**, have complied with the requirements as outlined in the O'Fallon Code of Ordinances for the Petition for **[subject property address]**, O'Fallon, Illinois, which we filed for on **[filing date]**.

Signed,  
**[Applicant(s)]**

## O'Fallon, Illinois Code of Ordinances

**ARTICLE 5:  
SPECIAL USES****§ 158.095 STATEMENT OF INTENT.**

The division of the city into zoning districts is based on the principle that similar conditions prevail throughout a particular district. Some uses of land are not appropriate as a “permitted use” in certain districts and are designated as special uses. Because they have a unique, special or unusual impact upon the use of enjoyment or neighboring property, these uses are only appropriate at a certain locations and upon receipt of a special use permit. Special uses shall be permitted only as provided herein and consistent with ILCS Ch. 65, Act 5, § 11-13-1.1. Unless otherwise provided by this chapter, a special use shall be subject to all of the regulations applicable within the zoning district in which the special use is authorized in addition to such other regulations as established by the terms or conditions of the special use permit that supplement, but may not reduce, such otherwise applicable minimum regulations.

(Ord. 3382, passed 11-7-2005)

**§ 158.096 WHEN SPECIAL USE PERMIT REQUIRED.**

A landowner shall obtain a special use permit prior to the issuance of a building permit:

- (A) For any use listed as a “special use” in the applicable zoning district; and
- (B) For any use otherwise requiring a special use permit by this chapter.

(Ord. 3382, passed 11-7-2005)

**§ 158.097 SPECIAL USE PERMIT; APPLICATION REQUIREMENTS.**

(A) Any person owning or having a cognizable interest in a given property may file an application.

(B) Except as may be omitted upon written consent of the Director, the following items shall be submitted in support of an application for a special use permit:

- (1) All general application requirements, including, but not limited to, §§ 158.270 through 158.282 of this chapter;
- (2) All preliminary and final site plan requirements contained in §§ 158.050 through 158.060 of this chapter or as otherwise required by this code;
- (3) A comprehensive narrative description of the use sought;



- (4) Development schedule providing reasonable guarantees for the completion of the proposed development or other construction according to the development schedule;
- (5) Any land areas within the Environmental Corridor (see environmental corridor map appendix in the Environmental/Landscape Framework Plan);
- (6) A statement regarding the requested length of term of the use after the date of issuance of the permit, if applicable;
- (7) A statement regarding any special conditions governing the operation of the proposed use(s), site development and other pertinent descriptive factors;
- (8) Color photographs of surrounding structures within 250 feet and elevation drawings of the proposed special use in sufficient detail to determine compliance with the zoning district regulations in which the special use is to be located;
- (9) A landscaping plan and any screening elements; and
- (10) Such other information as may be required by the Director relevant to the specific application to ensure compliance with the purposes and provisions of this chapter.

(Ord. 3382, passed 11-7-2005)

#### **§ 158.098 PROCEDURES AND CRITERIA FOR CONSIDERING SPECIAL USE PERMITS.**

(A) *Notice and hearing.* No special use shall be made, except by specific case or application and after a public hearing before the Planning Commission. Such hearing shall be after publication and notice of the time and place of the hearing, as provided for in this chapter in § 158.257 of this chapter applicable to zoning district amendments. The Commission shall hear the applicant and all interested persons who appear at the hearing.

(B) *Findings of fact and decision.*

(1) Subsequent to the hearing, the Commission shall render a decision on the application based on the criteria established in this subchapter. Each such decision shall be accompanied by findings of fact, including a separate conclusion, and shall refer to any exhibits containing plans and specifications for the proposed use, and shall remain a part of the permanent records of the Planning Commission. The findings of fact shall specify the reason or reasons for granting or denying the special use.

(2) In making its decision, the Commission shall:

(a) Grant the application, with or without conditions; including such conditions as are reasonably necessary to meet the standards of this chapter and other applicable law and to otherwise protect the immediate neighborhood or the city from adverse effects of the use or building proposed;

(b) Deny the application; or

(c) Refer the application back to the applicant for modification or to the Director for additional review or study if deemed necessary by the Commission.

(3) Any completed application submitted in conformance with this subchapter shall be deemed denied by the Planning Commission, for purposes of appeal to the Council, if no final written action has been rendered within 120 days from the date the complete application is filed. In such case, the applicant shall file its written appeal with the City Council within ten days thereafter to seek Council review.

(C) *Standards for considering applications.*

(1) A special use may be permitted only upon the applicant presenting evidence and bearing the burden of proof that such use meets the standards and requirements established for such classification in this chapter, and the granting of the permit may be subject to such conditions necessary to meet such standards.

(2) No special use permit may be granted unless the Planning Commission finds:

- (a) The special use is necessary for the public convenience at that location;
- (b) The special use is not injurious to the use and enjoyment of neighboring properties, nor detrimental to the public health, safety, morals or general welfare;
- (c) Adequate utilities, access roads, drainage and other necessary supporting facilities have been provided for;
- (d) Adequate measures have been provided to accommodate ingress and egress so as to avoid congestion, not unduly impede surrounding traffic flows or create hazardous or unsafe conditions;
- (e) The special use is will not adversely impact property values in the neighborhood; and/or
- (f) The special use will conforms to all other requirements of the district.

(3) In considering any special use application, the Commission and the City Council may give consideration to the criteria stated below, to the extent they are pertinent to the particular application. The Commission and City Council also may consider other factors that may be relevant to a particular application.

- (a) Satisfaction of any and all conditions and requirements applicable to the requested special use, as set forth in supplementary use regulations;
- (b) The existing uses and zoning of nearby property;
- (c) The extent to which property values are diminished by the proposed use;
- (d) The extent to which the destruction of property values, if any, of the property to be rezoned or nearby property promotes the health, safety, morals or general welfare of the public;
- (e) The relative gain to the public as compared to the hardship imposed on the individual property owner;
- (f) The suitability of the property for the zoned purpose;
- (g) The length of time the property has remained vacant as zoned considered in the context of land development in the area in the vicinity of the subject property;

(h) The public need for the proposed use;

(i) The extent to which the proposed use will adversely affect the capacity or safety of that portion of the street network impacted by the use, or present parking problems in the vicinity of the property;

(j) The extent to which the proposed use will create excessive storm water runoff, air pollution, water pollution, noise pollution or other environmental harm;

(k) The extent to which public facilities and services, are available and adequate to meet the demand for facilities and services generated by the proposed use;

(l) The conformance of the proposed use to the Comprehensive Plan, the Major Street Plan, the Capital Improvements Plan and other adopted planning policies; and

(m) The recommendation of professional staff.

(D) *Denial.* If the application is denied, the applicant shall not again apply within 12 months for a special use permit for substantially the same proposal unless there has occurred a substantial change of circumstances and the Commission consents to resubmission of substantially the same proposal. Otherwise, substantially the same proposal shall be submitted no earlier than one year after the date of denial. If the application is referred back to the applicant for modification, the applicant may resubmit the application in accordance with the directions of the Commission, if any, otherwise in time for the next regular meeting of the Commission.

(E) *Appeal to City Council.*

(1) Immediately following final action by the Planning Commission on any special use permit, a report shall be filed with the City Council concerning such action. Within 21 days after the Planning Commission's decision, the City Council, upon majority vote, may exercise the power of review of any Planning Commission decision on an application for a special use permit.

(2) Upon adoption of the motion to exercise the power of review, the City Council may refer the matter to committee. Following this adoption, and before acting on the special use permit, the City Council may set the matter for hearing before the committee or the City Council. The City Council will give written notice of any such hearing to the applicant and all other persons who appeared and spoke at the public hearing before the Planning Commission. In addition, the City Council may, in its discretion, notify and allow to be heard at the hearing any other person who the Council believes may be aggrieved by any decision or action concerning the special use permit.

(3) Following its review, the City Council may affirm, reverse or modify, in whole or in part, any determination of the Planning Commission. An affirmative majority vote of the City Council shall be required to overturn or modify a decision by the Planning Commission concerning a special use permit. The decision of the City Council shall be made within 45 days of the Planning Commission vote, unless extended for specified cause by a majority vote of the council, or the Planning Commission decision shall become final.

(4) Unless the City Council exercises its power of review of a special use permit, the decision of the Planning Commission shall become effective after 21 days following its decision.

(Ord. 3382, passed 11-7-2005)

**§ 158.099 VESTING OF RIGHTS.**

- (A) The mere issuance of a special use permit gives no vested rights to the permit holder.
- (B) A right to continue a specially permitted use shall vest only if the project is constructed and the use actually begun, and only for as long as may be specified in the permit.
- (C) The right to continue the special use that was permitted prior to the effective date of this chapter shall last only as long as specified by the special use permit.
- (D) As of the effective date of this chapter, existing permits shall be subject to the provisions for transferability as expressed in this chapter.
- (E) Uses that are allowed without a special use permit prior to the effective date of this chapter, but are designated as special uses in this chapter, shall be allowed to continue as non-conforming uses if the requirements of §§ 158.240 through 158.243, 158.255 through 158.257 and 158.270 through 158.282 of this chapter are satisfied.

(Ord. 3382, passed 11-7-2005)

**§ 158.100 PUBLIC BUILDINGS, PUBLIC UTILITY BUILDINGS OR STRUCTURES.**

Except where the use is otherwise designated as a permitted or planned use pursuant to another section of this chapter, the Planning Commission may by special use permit authorize any other building or use of the city, the county, the township, public school district, university, any state or federal agency or public utility in either a governmental or proprietary capacity, in any zoning district as the Commission deems necessary for the convenience and welfare. Such building, structure or use shall be subject to such of the requirements of the district wherein the building, structure or use is situated and to such of the other regulations applying to uses permitted in the development as the Commission deems necessary to comply with the general provisions of this chapter and to assure compatibility of the development with the character of its locality.

(Ord. 3382, passed 11-7-2005)

**§ 158.101 FINAL DEVELOPMENT PLAN; TRANSFERABILITY, LAPSE, EXPIRATION AND REVOCATION.**

(A) *Final development plan; effective date of permit.* Unless otherwise specified in the terms of the special use permit, such permit shall be effective to authorize the use granted therein only upon approval of a final development plan and recording thereof as provided for final development plans, elsewhere in this chapter. [See § 158.054(E)]

(B) *Transferability.*

(1) A special use permit may be conveyed with the land only if a right to continue the use has vested under the terms of this subchapter. The transfer of a permit in which no right has vested shall be invalid. Nothing in this subchapter shall be construed to alter the expiration date of permits or the authority of the City Council to revoke a permit.

(2) A permit cannot be assigned or transferred to a different parcel of land.

(3) Every entity attempting to convey a special use permit shall give notice in writing to the Director within 72 hours after having sold, transferred, given away or otherwise disposed of an interest in or control of a parcel of land for which a special use permit has been issued. Such notice shall include the name and address of the successor in interest or control of the parcel. Receipt of such notice shall not constitute acceptance of an invalid transfer.

(C) *Lapse.* A special use permit in which no vested right has been established, shall lapse and become void unless the applicant applies for any building permit incident to the proposed use within one year of the date of approval by the City Council. Upon the written request of the property owner and for good cause shown, the City Council may grant one extension of not more than one year. An application for extension will be considered only if it is submitted, in writing, prior to the expiration of the initial period.

(D) *Expiration of permit.* The approved special use permit may specify the duration of its validity and shall expire, unless renewed by approval of a new special use permit as provided herein. A special use permit shall also expire if no final site plan has been submitted and approved within 12 months from the date of the special use permit approval. The City Council may grant one site plan extension not exceeding 12 months upon written request. The approval of a revised preliminary site plan shall not automatically extend the time period during which the preliminary site plan and/or special use permit is valid. An expired special use permit shall grant no authority of any kind upon such expiration and no use shall be permitted to continue thereafter in reliance on such permit authority.

(E) *Revocation.* Any special use permit granted under the authority of this section is subject to revocation for any or all of the following reasons:

(1) Non-compliance with any applicable requirement as set forth in this subchapter;

(2) Non-compliance with any special conditions imposed at the time of approval or renewal of the special use permit;

(3) Violation of any provisions of the code of ordinances pertaining to the use of the land, construction or uses of buildings or structures or activities conducted on the premises by the permit holder, agents of the permit holder or tenants;

(4) Violation of any other applicable provisions of the code of ordinances or any state or federal law or regulation by the permit holder, agents of the permit holder or tenants; provided that, such violations relate to the conduct or activity authorized by the special use permit or the qualifications of such persons to engage in the permitted use;

(5) Attempted transfer of a permit in violation of this subchapter; and

(6) Revocation is necessary to preserve the public health, safety and welfare.

(F) *Procedure for revocation.*

(1) Revocation proceedings may be initiated by the City Council.

(2) Unless the permit holder and the landowner agree in writing that the permit may be revoked, the City Council shall hold a public hearing to consider the revocation of the special use permit.

(3) The city shall give the permit holder and landowner notice of the scheduled revocation hearing at least 15 days prior to the date scheduled for such hearing by certified mail, return receipt requested. If such notice cannot be delivered or is not accepted, notice may be given by publishing a notice of hearing in a newspaper of general circulation in the city or by posting a notice of hearing on the property at least 15 days prior to the date scheduled for the hearing.

(4) The public hearing shall be conducted in accordance with rules of procedure established by the City Council. At the conclusion of the public hearing, the City Council may render its decision or take the matter under advisement.

(5) No special use permit shall be revoked unless a majority of the City Council is satisfied by a preponderance of the evidence that grounds for revocation exist. Any motion for the revocation of a special use permit shall clearly state the grounds for revocation.

(Ord. 3382, passed 11-7-2005)

### **§ 158.102 VIOLATIONS.**

No property for which a special use permit has been granted shall be used or developed contrary to the requirements of such permit and final site plan, unless such permit is amended by approval granted in the manner as provided for the initial approval of a special use permit; provided that, nothing herein shall preclude additional particulars or requirements in a final site plan or an amended final site plan as may be necessary to satisfy the conditions of the special use permit. In addition to the other remedies for violation provided herein, such violations are subject to all other penalties and enforcement provisions as established for other violations of this chapter.

(Ord. 3382, passed 11-7-2005)

## O'Fallon, Illinois Code of Ordinances

**ARTICLE 13:  
NOTICES AND HEARINGS****§ 158.255 PUBLICATION NOTICES.**

(A) *Newspaper public notice publication.* Notice of all hearings for zoning text amendments, property rezoning or other approvals subject to this requirement shall be published in one issue of a newspaper published in the city or, if no newspaper is published in the city, a newspaper of general circulation in the city. At least 15 days, but no more than 30 days, shall elapse between the date of such publication and the date set for hearing. It shall be the city's responsibility to make sure said public notice is published pursuant to this section. Notice for text amendments shall include a brief statement describing the requested change.

(B) *Inclusions.* Notice for other amendments or approvals shall include:

(1) Identification or description of the particular location for which the amendment or other approval is sought; as well as

(2) A brief statement describing the proposed amendment or other approval sought.

(Ord. 623, passed 9-8-1970)

**§ 158.256 NOTICES OF HEARING TO SURROUNDING PROPERTY OWNERS.**

(A) *Mailed notice.* Notice for hearings subject to this subchapter, except hearings for text amendments, shall in addition to the newspaper publication requirement above also require notice to surrounding property owners as follows.

(1) The applicant shall certify and provide the addresses and owners, as recorded in the office of the Recorder of Deeds of the county and as appears from the authentic tax records of the county, of all property within 250 feet in each direction of the location for which the special use is requested.

(2) Making notice of the hearing to the neighboring owners of record is the city's responsibility and shall be sent by regular mail within 15 days of the scheduled hearing, but shall not be sent more than 30 days prior to the scheduled hearing.

(B) *Notice of intent to surrounding property owners.* It shall be the applicant's responsibility to submit a notice of intent to surrounding property owners by certified mail. The notice shall contain the time and place of the public hearing and a statement regarding the purpose of the hearing, including, but not limited to, the following.

(1) The notice shall contain a statement regarding the proposed changes in the chapter or in the boundaries of the zone or district.

(2) Where the hearing is for an application that relates to specific property, the property shall be designated by its legal description and general street location.

(Ord. 623, passed 9-8-1970; Ord. 3718, passed 6-20-2011)

### **§ 158.257 PUBLIC HEARINGS.**

When the consideration of an application requires a public hearing, the following shall apply.

(A) *Purpose.* The purpose of a public hearing is to provide the applicant and all other interested parties a reasonable and fair opportunity to be heard, to present evidence relevant to the application and to rebut evidence presented by others.

(B) *Minutes.* A journal of minutes of the proceedings shall be made for all public hearings.

(C) *Rules of procedure.* All testimony by witnesses in any hearing shall be given under oath. The governing body, Commission and Board may adopt additional rules of procedure for public hearings by resolution or by- laws.

(D) *Continuance.* Any applicant or authorized agent shall have the right to one continuance of a public hearing before the Commission, governing body or Zoning Hearing Officer. No additional notices shall be required, except if a hearing is continued to an unspecified date, notice pursuant hereto shall be required to officially schedule the subsequent date and place of the continued hearing. If a second continuance is required it shall be treated as a new public hearing. Notice for the new hearing shall be accordance with §§ 158.255 and 158.256 of this chapter.

(Ord. 623, passed 9-8-1970)

## **ARTICLE 14: GENERAL APPLICATIONS AND PROCEDURES**

### **§ 158.270 GENERAL.**

The following requirements apply to all applications for zoning text amendments, property rezonings, special use permits and other applications subject to this chapter, unless otherwise specified.

(Ord. 623, passed 9-8-1970)

### **§ 158.271 APPLICATIONS.**

(A) All applications shall be made on forms provided by the city.

(B) If an application is filed by, or on behalf of, a landowner, an affidavit of ownership shall be submitted to the city with the application.



(C) If an application is filed by an agent of a landowner, an affidavit of the landowner establishing the agent's authorization to act on behalf of the landowner shall also be submitted with the application.

(D) All applications shall be accompanied with the appropriate fees made payable to the city.

(E) The affidavits required by this section shall be on forms provided by the city or in such form as is acceptable to the Director and shall be submitted at the time of filing the application.

(F) All applications shall include proof of service to the County Soil and Water Conservation District for comment pursuant to ILCS Ch. 70, Act 405, § 22.02a, of a copy of any application for text amendment, property rezoning variance or application for relief from existing zoning regulation shall be sent.

(Ord. 623, passed 9-8-1970)

### **§ 158.272 PRE-APPLICATION CONFERENCE.**

(A) A pre-application conference with the Director or his or her designee shall be required prior to submission of any application for a variance, rezoning, special use permit, sketch plan, preliminary development plan or preliminary plat.

(B) The purpose of this conference is to:

(1) Acquaint the applicant with the procedural requirements of this chapter;

(2) Provide for an exchange of information regarding applicant's proposed development and the regulations, restrictions and requirements of this chapter, the Comprehensive Plan and other development requirements;

(3) Advise the applicant of any technical studies or public sources of information that may aid the application;

(4) Identify policies and regulations that create opportunities or pose significant restraints for the proposed development;

(5) Review any proposed concept plans and consider opportunities to increase development benefits and mitigate undesirable project consequences;

(6) Review whether the application is compatible with adjacent proposed or existing development; and

(7) Permit assistance by city staff with the development's general design.

(Ord. 623, passed 9-8-1970)

### **§ 158.273 GENERAL APPLICATION REQUIREMENTS.**

(A) *Application requirements.* Unless otherwise indicated in this chapter or by the Director, all applications shall contain or be accompanied by the following items and materials;

(1) Date prepared;

- (2) Name, address and telephone number of the applicant and the name, address and telephone number of the landowner if different than the applicant;
- (3) Affidavit of ownership pursuant to § 158.271 of this chapter;
- (4) Such information and certifications required by § 158.256 of this chapter;
- (5) Name, address and telephone number of all persons preparing any technical studies, maps, drawings and documents submitted with the application;
- (6) Form provided by Director, signed by both the landowner and the Director, that shows a pre-application conference has occurred as required herein;
- (7) Accurate legal description of the property for which the application is submitted;
- (8) Any technical studies that may be required by the Director;
- (9) Statement regarding adequate public facilities and services for the proposed development;
- (10) Small key map with north arrow indicating the location of the property within the city;
- (11) A statement of the reasons for the request; and
- (12) A statement of when development of the land area covered by the application is contemplated to commence after the application is approved.

(B) *Map submission requirements.* Unless otherwise indicated in this chapter or by the Director, each map required by this chapter shall be on paper that is 24 inches by 36 inches. An 11-inch by 17-inch version of and/or a digital copy of all applications may also be required, as needed, by the Director. The maps in the number of copies as required by the Director shall contain the following:

- (1) Date prepared;
- (2) Name, address and telephone number of the person who prepared, or person responsible for preparing, the map;
- (3) Graphic, engineering scale;
- (4) North arrow;
- (5) Location of property lines of the subject property;
- (6) Approximate existing and proposed grades based on U.S.G.S. datum at ten-foot contour intervals or spot grades for preliminary submissions (including sketch plans), and five- or two-foot contour intervals for final submissions (including final development plans); and
- (7) Existing conditions showing the following:
  - (a) All existing streets and rights-of-way on the land area covered by the application and on all property within 250 feet of the boundaries of the property, including street name and widths of pavement and rights-of-way;
  - (b) Names of any abutting subdivisions, and the names of owners of abutting property on unsubdivided parcels;

- (c) Land use and zoning classification with district boundary lines of all property abutting and all property within 250 feet of the boundaries of the property covered by the application;
- (d) All existing drainage channels on the land area covered by the application;
- (e) The location and size of all existing utilities and easements on the land area covered by the application; and
- (f) The location and elevation of all areas designated as 100-year floodplain areas by the Federal Emergency Management Agency on the land area covered by the application.

(Ord. 623, passed 9-8-1970)

#### **§ 158.274 SUBMISSION OF TECHNICAL STUDIES.**

*(A) Technical studies required by the Director.*

- (1) The Director may require applicants to submit any technical studies that the Director deems necessary to enable the appropriate person or entity to fully evaluate the application.
- (2) Examples of technical studies that may be required shall include, but not be limited to, traffic studies, engineering studies, geologic or hydrogeologic studies, flood studies, environmental impact assessments, noise studies or surface water management/drainage studies. The persons or firms preparing the studies shall be approved by the Director.
- (3) The costs of all studies shall be borne by the applicant.

*(B) Technical studies required by Commission or governing body.* Notwithstanding the fact that the Director did not require submission of a technical study in support of an application, either the Commission or the governing body may require the submission of a technical study prior to taking action on an application. In this case, the persons or firms selected to perform the study shall be approved by the entity requesting that the study be performed. Any decision of the Commission or the governing body to require that a study be performed or to disapprove the person or firm selected by the applicant to perform the study shall be final. The persons or firms preparing the studies shall be approved by the Director. The costs of all studies shall be borne by the applicant.

(Ord. 623, passed 9-8-1970)

#### **§ 158.275 WHEN APPLICATIONS DEEMED COMPLETE.**

No application shall be deemed complete until all items required to be submitted by this chapter have been submitted. Upon receipt of a complete application the Department shall note the filing date on the application and shall make a permanent record thereof. If the applicant fails to submit required elements, the application will not be considered complete, the application shall not be processed, and the filing, notification and advertising process established by this chapter will not begin until all required elements have been submitted in the form required by this chapter.

(Ord. 623, passed 9-8-1970)

**§ 158.276 APPLICATION AND SUBMISSION DEADLINES.**

(A) The Director or the Commission may administratively provide for submission deadlines for materials required in support of any application provided for in this chapter. These deadlines shall be provided to the applicant at the pre-application conference.

(B) Compliance with these deadlines is required before the application will be placed on an agenda to be heard by the appropriate entity.

(Ord. 623, passed 9-8-1970)

**§ 158.277 DUAL APPLICATIONS.**

In an instance where an applicant seeks approval of two requests simultaneously, such as a property rezoning and a special use permit, the applicant shall submit all necessary documents, plans, maps and other required information in accordance with the provisions relating to both of the submitted applications and pay all appropriate fees for both applications.

(Ord. 623, passed 9-8-1970)

**§ 158.278 CITY STAFF REVIEW.**

The city staff shall review all applications, plans, information and data submitted in support of an application by the applicant. After reviewing such information, the city staff shall prepare a staff report discussing the submitted data. This report shall be provided to the applicant, all appropriate city officials and be available for public review. The staff report may contain a recommendation for approval, approval with conditions or denial.

(Ord. 623, passed 9-8-1970)

**§ 158.279 CONDITIONAL APPROVALS.**

In the consideration of any application authorized by this chapter, the recommending and the approving authority may stipulate that the recommendation or approval, as the case may be, is subject to compliance with certain specified conditions, including, but not limited to, limitations on permitted uses; time of performance requirements; limitation on hours of operation; and provision of services and/or facilities to ensure that adequate public services and facilities are available to serve the development proposed by the application.

(Ord. 623, passed 9-8-1970)

**§ 158.280 WRITTEN FINDINGS NOT REQUIRED; WHEN.**

Unless otherwise specifically provided in this chapter or by other applicable law, written findings are not required for a final decision on any application. However, any decision may be expressly made subject to the subsequent adoption of written findings and, if expressly made subject to written findings, the decision shall not be final until the findings are adopted.

(Ord. 623, passed 9-8-1970)

#### **§ 158.281 FINAL DECISION WHERE ORDINANCE REQUIRED.**

(A) In the case of a decision to approve an application where adoption of an ordinance is required, the decision shall be final on the date that the governing body adopts the ordinance approving the application.

(B) A decision to deny an application is final when:

- (1) The governing body votes to deny the application; or
- (2) An ordinance with respect to such application fails to receive number of votes required by law.

(Ord. 623, passed 9-8-1970)

#### **§ 158.282 APPEALS OF FINAL DECISIONS.**

Except where this chapter provides for an appeal to another body, any person, official or agency who is aggrieved by a final decision on an application provided for in this chapter, and who desires to appeal the decision, shall file the appeal in the appropriate court of jurisdiction, as the case may be, within 30 days after the decision is made.

(Ord. 623, passed 9-8-1970)