

Dates to Remember for Special Use Permit

1. _____ - by Noon
Last day to have completed variance 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 owner. You may also 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 8.06 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 Article VIII.

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.

PETITION FOR SPECIAL USE PERMIT

Planning & Zoning Department, O'Fallon City Hall
255 South Lincoln Avenue, 2nd Floor
O'Fallon, IL 62269 Phone (618) 624-4500 Ext. 4

Special 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 Zoning Hearing Officer:

() Denied

() Denied

() Approved

() Approved

() 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 Planning & Zoning Office 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 Article III of the Zoning Ordinance.

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

Planning & Zoning Department, O'Fallon City Hall
255 South Lincoln Avenue, 2nd Floor
O'Fallon, IL 62269 Phone (618)624-4500 #4

(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 Planning & Zoning Office for any assistance needed in completing this form. Upon completion of any proposed structure, a "Certificate of Occupancy" may be granted upon request.

1. Name of property owner(s): _____ Phone: _____
Complete mailing address: _____ E-Mail: _____
2. Applicant's name: _____ Phone: _____
Complete mailing address: _____ E-Mail: _____
3. Property interest of applicant (Owner, Contractor, etc.): _____
4. Design professional name: _____ Phone: _____
Contact name: _____ E-Mail: _____
Design professional complete mailing address: _____
5. Property address (9-1-1 approved) of proposed construction: _____
Name and description of proposed type of business: _____
6. Legal description (parcel ID# and lot # & subdivision name): _____
7. 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 2003 ICC Building Code Use Group: _____ Existing 2003 ICC Building Code Type of Construction: _____
Proposed 2003 ICC Building Code Use Group: _____ Proposed 2003 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:
- a) Dimensions of the zoning lot;
 - b) Dimensions and use of all buildings;
 - c) Distance of each building from all zoning lot lines;
 - d) Distance of principal building from principal buildings on adjacent lot(s);
 - e) Location of driveways and off-street parking spaces (show distance from lot lines and overall dimensions);
 - f) Location of all easements (drainage and utility);
 - g) Any additional information as may be reasonably required by the Planning & Zoning Department and applicable requirements of Section 2.04(e).

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. A complete set of the approved site/civil plans and approved building plans will be required prior to issuance of the building permit. A complete set of the site/civil plans and complete building plans including all revisions and corrections will be required prior to issuance of the Final Certificate of Occupancy.

11. Application is hereby made for a Temporary Certificate of Zoning Compliance, as required under the Zoning Ordinance 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 Zoning Ordinances, or by other ordinances, codes or regulations of O'Fallon, Illinois.

(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 Zoning Ordinance.

Dated: _____, _____, _____

 Planning & Zoning Official, 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 variance to the City of O'Fallon Zoning Hearing Officer on **[date petition submitted]**. The variance is to allow **[describe the reason for the variance (i.e. increase the percent of lot coverage from 30% to XX% for construction of a room addition or to extend 5 feet into the required 25 ft rear yard setback for placement of a modular home)]**.

The variance 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 variance]**.

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

If you have any questions regarding the variance, please contact either the property owner or the City of O'Fallon Planning & Zoning Office at (618)624-4500 ext. 4.

Sincerely,
XXXXX

[Applicant name and signature]

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 this on the hand-delivered letters:

I/We hereby acknowledge receipt of the above notification of a Petition for Zoning Variance initiated by **[Applicant name here]**.

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 Zoning Code of Ordinances for the Variance for **[subject property address]**, O'Fallon, Illinois, which we filed for on **[filing date]**.

Signed,
[Applicant(s)]

SAMPLE

Section 7.010. 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 65 ILCS 5/11-13-1.1. Unless otherwise provided by this Ordinance, 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.

Section 7.020. When special use permit required

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

- 1) For any use listed as a "special use" in the applicable zoning district. and
- 2) For any use otherwise requiring a special use permit by this Chapter.

Section 7.030. Special use permit; application requirements

Any person owning or having a cognizable interest in a given property may file an application. 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, Article VIII, Division III.
- 2) All preliminary and final site plan requirements contained in Article 3 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).
- 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 two hundred fifty (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;
- 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 Ordinance.

Section 7.040. Procedures and criteria for considering special use permits

- 1) 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 Ordinance in Article IV, Section 8.070 applicable to zoning district amendments. The Commission shall hear the applicant and all interested persons who appear at the hearing.
- 2) Findings of Fact and Decision: Subsequent to the hearing, the Commission shall render a decision on the application based on the criteria established in this Article. 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. 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 Ordinance 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.

Any completed application submitted in conformance with this Article 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 10 days thereafter to seek Council review.

- 3) Standards for considering applications. 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 Ordinance, and the granting of the permit may be subject to such conditions necessary to meet such standards.

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

- a) That the special use is necessary for the public convenience at that location;
- b) That 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) That adequate utilities, access roads, drainage and other necessary supporting facilities have been provided for;
- d) That 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) That the special use is will not adversely impact property values in the neighborhood;
and
- f) That the special use will conforms to all other requirements of the district.

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.
 - m) The recommendation of professional staff.
- 4) **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.
- 5) **Appeal to City Council:** 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.

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.

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.

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.

Section 7.050. Vesting of rights

- 1) The mere issuance of a special use permit gives no vested rights to the permit holder.
- 2) 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;.
- 3) 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.
- 4) As of the effective date of this Chapter, existing permits shall be subject to the provisions for transferability as expressed in this Chapter.
- 5) 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 nonconforming uses if the requirements of Article 8 are satisfied.

Section 7.060. 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 Ordinance, 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 Ordinance and to assure compatibility of the development with the character of its locality.

Section 7.070. Final Development Plan; transferability, lapse, expiration and revocation

- 1) 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

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

6) Procedure for revocation:

- a. Revocation proceedings may be initiated by the City Council.
- b. 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.
- c. The City shall give the permit holder and landowner notice of the scheduled revocation hearing at least fifteen 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 fifteen days prior to the date scheduled for the hearing.
- d. 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.
- e. 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.

Section 7.080. 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 Ordinance.



Article 8

AMENDMENTS, HEARINGS & APPLICATIONS

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Division I: Zoning Amendments; procedure.

Section 8.010. Who may apply

- 1) Text Amendments. An application for a zoning text amendment may only be filed by the Governing Body, the City Administrator or the Director. A "zoning text amendment" is any amendment to the City's Zoning Code herein, but does not include the Property Rezoning.
- 2) Property Rezoning. An application for property rezoning may be filed by either the City Administrator, at the direction of the Governing Body, the landowner, or the landowner's agent. A "Property Rezoning" is a zoning district change or a planned use amendment applicable to one or more specific properties reflected on the Official Zoning Map.

Section 8.020. Consideration of zoning text amendments

All zoning text amendments shall be approved by ordinance. Consideration of zoning text amendments shall require a public hearing before the Commission following publication notice in accordance with requirements set forth in Division II of this Article. The recommendation of the Commission is advisory. A vote either for or against a zoning text amendment by a majority of all of the Commissioners present shall constitute a recommendation of the Commission. If a motion for or against the zoning text amendment fails to receive a majority vote, the Commission may entertain a new motion. A tie vote, or the failure to obtain a majority vote on any motion, shall constitute a "failure to recommend." The Commission's recommendation, or failure to recommend, shall be submitted to the Governing Body, accompanied by a written summary of the hearing. When the Commission submits a recommendation to the Governing Body, the Governing Body may take such action as it deems appropriate, including approval, approval with conditions, disapproval, amendment of the application and adoption as amended, or rehearing of the petition by the Governing Body.

Section 8.030. Consideration of Property Rezoning applications

- 1) Public hearing required: Consideration of all applications for Property Rezoning shall require a public hearing before the Commission and Governing Body, with publication notice, notice to surrounding property owners as required by Division II of this Article.
- 2) Procedures: The procedures for Commission and Governing Body consideration of Property Rezoning applications shall conform to the procedures set forth for zoning text amendments. The Governing Body shall not take action on the Commission's original recommendation or a failure to recommend unless seven (7) days have elapsed after the date of the conclusion of the Commission's public hearing held pursuant to publication notice to allow the filing of a protest petition as provided in this section. However, where the right to file a protest petition has been waived in a verified statement signed by all property owners holding the right, the Governing Body may consider the Commission's recommendation at any time.
- 3) Protest petitions: A protest against any Property Rezoning application shall be filed not later than the end of the business day (5:00 p.m.) on the seventh (7th) day following the date of the conclusion of the Commission's public hearing held pursuant to the publication notice. To be considered a valid protest, a protest petition must be timely filed and duly signed and



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acknowledged by the owners of 20% of the frontage proposed to be altered, or by the owners of 20% of the frontage immediately adjoining or across an alley therefrom, or by the owners of 20% of the frontage directly opposite the frontage proposed to be altered.

If a protest is filed, a copy of the written protest shall be 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 the applicant and attorney shown in the application for the proposed amendment. Verification of the genuineness and correctness of the signatures on the protest petition, either individually or collectively, shall be made by a person who has signed the protest petition.

Once a valid protest petition has been filed with the City, it may not be withdrawn unless every person who originally signed the protest signs a verified affidavit that states and fully explains the rights being waived by the withdrawal of the protest petition. The affidavits of withdrawal must be filed with the City Clerk on or before the last regular business day preceding the Governing Body meeting for which the protest applies. For purposes of withdrawal, signatures shall not be required of the City, where City-owned property lies within the protest area, or of entities controlling rights-of-way or utility easements.

- 4) Adoption where protest filed: Where a valid protest petition has been filed, an ordinance approving the Property Rezoning shall not become effective except by the favorable vote of two-thirds (2/3) of all members of the Governing Body.
- 5) Criteria for considering applications: In considering any application for rezoning, the Commission and the Governing Body may give consideration to the criteria stated below to the extent they are pertinent to the particular application. The Commission and Governing Body also may consider other factors that may be relevant to a particular application.
 - a) the existing uses and zoning of nearby property;
 - b) the extent to which property values are diminished by the particular zoning restrictions;
 - c) the extent to which the destruction of property values of plaintiff promote the health, safety, morals or welfare of the public;
 - d) the relative gain to the public as compared to the hardship imposed upon the individual property owner;
 - e) the suitability of the subject property for the zoned purposes;
 - f) the length of time the property has been vacant as zoned considered in the context of land development in the area in the vicinity of the subject property;
 - g) the care that the community has taken to plan its land use development, and
 - h) the community need for the proposed use.

Section 8.040. Limitation on successive Property Rezoning applications by landowner

- 1) No application for Property Rezoning shall be accepted if any application for Property Rezoning for substantially the same property has been filed and advertised for public hearing within the preceding twelve (12) months.
- 2) For purposes of paragraph 1 of this Section, the preceding twelve (12) months period shall be determined as follows:



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- a) If there was final action (either approval or denial) on the prior application, the twelve (12) months period shall run from the date of the action.
- b) If the prior application was withdrawn after being advertised for public hearing, the twelve (12) months period shall run from the date the application was withdrawn.
- 3) The Director shall determine if an application concerns "substantially the same property" as a prior application. The landowner may appeal the Director's determination to the Governing Body.

Division II: Notices and hearings

Section 8.050. Publication notices

- 1) 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 fifteen (15) days, but no more than thirty (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. Notice for other amendments or approvals shall include:
 - a) Identification or description of the particular location for which the amendment or other approval is sought, as well as
 - b) A brief statement describing the proposed amendment or other approval sought.

Section 8.060. Notices of hearing to surrounding property owners

- 1) Mailed notice: Notice for hearings subject to this Division II, except hearings for text amendments, shall in addition to the newspaper publication requirement above also require notice to surrounding property owners as follows:
 - a) The applicant shall certify and provide the addresses and owners, as recorded in the office of the Recorder of Deeds of St. Clair County, Illinois 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.
 - b) 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.
- 2) 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:
 - a) The notice shall contain a statement regarding the proposed changes in the Chapter or in the boundaries of the zone or district.
 - b) 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.



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Section 8.070. Public hearings

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

- 1) 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.
- 2) Minutes: A journal of minutes of the proceedings shall be made for all public hearings.
- 3) 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 bylaws.
- 4) Continuance: Any applicant or authorized agent shall have the right to one continuance of a public hearing before the Commission, Governing Body or Board. No additional notices shall be required, except if a hearing is continued to an unspecified date, notice pursuant to Division to of this Article 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 Section 4.060 "Publication Notices" and Section 14.070 "Notices to surrounding property owners".

Division III: General applications and procedures

The following requirements apply to all applications for zoning Text Amendments, Property Rezoning, Special Use permits, and other applications subject to this Chapter, unless otherwise specified.

Section 8.080. Applications

- 1) All applications shall be made on forms provided by the City.
- 2) 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.
- 3) 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.
- 4) All applications shall be accompanied with the appropriate fees made payable to the City of O'Fallon, Ill.
- 5) 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.
- 6) All applications shall include proof of service to the St. Clair County Soil and Water Conservation District for comment pursuant to 70 ILCS 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

Section 8.090. Pre-application conference

A pre-application conference with the Director or his 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. 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.

Section 8.100. General application requirements

- 1) 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:
 - a) date prepared;
 - b) name, address and telephone number of the applicant and the name, address and telephone number of the landowner if different than the applicant;
 - c) affidavit of ownership pursuant to Section 8.080;
 - d) Such information and certifications required by Section 8.060 (notice to surrounding owners);
 - e) name, address and telephone number of all persons preparing any technical studies, maps, drawings and documents submitted with the application;
 - f) form provided by Director, signed by both the landowner and the Director, that shows a pre-application conference has occurred as required herein;
 - g) accurate legal description of the property for which the application is submitted;
 - h) any technical studies that may be required by the Director;
 - i) statement regarding adequate public facilities and services for the proposed development; and
 - j) small key map with north arrow indicating the location of the property within the City.

- a. A statement of the reasons for the request
 - b. A statement of when development of the land area covered by the application is contemplated to commence after the application is approved.
- 2) 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" x 36". An 11X17 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:
- a) date prepared;
 - b) name, address and telephone number of the person who prepared, or person responsible for preparing, the map;
 - c) graphic, engineering scale;
 - d) north arrow;
 - e) location of property lines of the subject property;
 - f) approximate existing and proposed grades based on USGS datum at ten-foot contour intervals or spot grades for preliminary submissions (including sketch plans), and five- or two-foot (5- or 2-foot) contour intervals for final submissions (including final development plans); and
 - g) Existing conditions showing the following:
 - i. 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.
 - ii. Names of any abutting subdivisions, and the names of owners of abutting property on unsubdivided parcels.
 - iii. 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.
 - iv. All existing drainage channels on the land area covered by the application.
 - v. The location and size of all existing utilities and easements on the land area covered by the application.
 - vi. The location and elevation of all areas designated as one hundred (100) year floodplain areas by the Federal Emergency Management Agency on the land area covered by the application.

Section 8.110. Submission of technical studies

- 1) Technical studies required by the Director: 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. 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



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management/drainage studies. The persons or firms preparing the studies shall be approved by the Director. The costs of all studies shall be borne by the applicant.

- 2) 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.

Section 8.120. 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.

Section 8.130. Application and submission deadlines

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

Section 8.140. Dual applications

In an instance where an applicant seeks approval of two (2) 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.

Section 8.150. 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.

Section 8.160. 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



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services and/or facilities to ensure that adequate public services and facilities are available to serve the development proposed by the application.

Section 8.170. 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.

Section 8.180. Final decision where ordinance required

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.

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.

Section 8.190. 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 thirty (30) days after the decision is made.