

SECTION 4. APPLICATIONS AND APPROVAL PROCESSES

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4.1 PURPOSE

The purpose of this Section is to delineate the scope of applicability, specific procedures and requirements, and approval criteria that are applicable to each zoning application and approval.

4.2 ZONING INTERPRETATION

A. Purpose

This interpretation authority is not intended to add or change the essential content of the Ordinance. The interpretation authority is intended to recognize that the provisions of this Ordinance, though detailed and extensive, cannot, as a practical matter, address every specific zoning issue. Such issues may often be addressed by reference to general circumstances that the specific provision was intended to address.

B. Initiation

Applications for zoning interpretations may be filed by an owner of any property in the City. In addition, the City Council or the Planning and Zoning Commission may request that the Zoning Administrator render an interpretation. Requests initiated by the City require an application, but are exempt from fees. The interpretation must be for the purpose of furthering some actual development.
(Ordinance 2008-65, 9/2/2008)

C. Authority and Execution

The Zoning Administrator shall review and make final decisions on requests for interpretations. Nothing in this Section shall require the Zoning Administrator to make an interpretation if he is of the opinion that the exposure to liability for the City on account of the interpretation outweighs the benefit to the requestor.

D. Procedure

All applications for interpretations shall be filed with the Zoning Administrator, in accordance with the requirements in Section 3.2 (Application). Upon receiving a complete application, the Zoning Administrator shall review a request for an interpretation and render the interpretation within a reasonable time. The Zoning Administrator shall have the ability to request additional information prior to rendering an interpretation.
(Ordinance 2008-65, 9/2/2008)

4.3 APPEAL OF A ZONING ADMINISTRATOR DETERMINATION

A. Purpose

The zoning appeals process for review of decisions of the Zoning Administrator is intended to provide appropriate checks and balances on administrative authority.

B. Initiation

Applications for appeals may be filed by any owner of any property in the City that is directly affected by a decision made under this Ordinance by the Zoning Administrator.

C. Authority and Execution

The Zoning Board of Appeals may review only those determinations of the Zoning Administrator which result from requests made pursuant to this Ordinance. Other decisions and actions of the Zoning Administrator cannot be appealed under this process.

D. Procedure

All applications for appeals shall be filed with the Zoning Administrator, in accordance with the requirements in Section 3.2 (Application). Upon receiving a complete application, the Zoning Administrator shall forward a copy of the application to the Zoning Board of Appeals. The Zoning Board of Appeals shall conduct a public hearing, in accordance with Sections 3.4 (Public Hearing), within sixty (60) days of receipt of a complete application. If, in the Zoning Board of Appeal's judgment, the application does not contain sufficient information to enable the Board to properly discharge its responsibilities, the Board may request additional information from the applicant. In that event, the sixty (60) day period shall be suspended pending receipt of all requested information. Notice shall be given in accordance with Sections 3.3 (Notice). The Zoning Board of Appeals shall decide the appeal within forty-five (45) days of the close of the public hearing. The Zoning Board of Appeals may reverse or affirm or may modify the order, requirement, decision or determination. (See Appendix B for Flowchart 1: Appeals Process) (Ordinance 2008-65, 9/2/2008)

E. Limitations on Appeals

A decision may only be appealed if an application is filed within thirty (30) days of that decision.

4.4 ZONING VARIANCE

A. Purpose

The variance process is to provide a narrowly circumscribed means by which relief may be granted from unforeseen applications of this Ordinance that create particular hardships.

B. Initiation

Applications for zoning variances may be filed by an owner of any property in the City for that property. (Ordinance 2008-65, 9/2/2008)

C. Authority and Execution

Variances may be authorized by the terms of this Ordinance. Minor and major variances, in accordance with the standards of, and as defined by, Paragraph D.2 (Minor Variance) and D.3 (Major Variance), may be authorized only after a public hearing, where the Zoning Board of Appeals has made findings of fact in accordance with Paragraph E (Findings of Fact) below, that owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in practical difficulties or particular hardship for the owner of land or a structure. The Zoning Administrator is authorized to grant certain administrative variances, in accordance with the standards of, and as defined by, Paragraph D.1 (Administrative Variance) and only after making findings of fact in accordance with Paragraph E (Findings of Fact) below.

D. Procedure

All applications shall be filed with the Zoning Administrator in accordance with the requirements in Section 3.2 (Application). Upon receiving a complete application, the Zoning Administrator shall make a determination whether the application is for an administrative variance, a minor variance or a major variance. In the case of a minor or major variance, the Zoning Administrator shall forward a copy of the application to the Zoning Board of Appeals. (See Appendix B for Flowchart 2: Variance Process.) (Ordinance 2008-65, 9/2/2008)

1. Procedure for Administrative Variance

- a.** The Zoning Administrator is authorized to render final decisions on application for variances from the regulations of this Ordinance in the following instances and in no others:
 - i.** A variance of the applicable minimum lot size requirements for single-family and two-family dwellings may be granted by the Zoning Administrator if the substandard lot has an existing structure constructed upon it at the time of adoption of this Ordinance. If the lot is vacant, the Zoning Administrator is not authorized to grant any part of the request. In some instances, a lot width or lot area that does not meet Ordinance requirements may be controlled by the provisions of Section 15.5 (Nonconforming Lots of Record).
 - ii.** A variance to applicable off-street parking and loading requirements by no more than five percent (5%).
 - iii.** A variance to the regulations contained in Section 12 (Off-Street Parking and Loading) relating to the storage of recreational vehicles in required front and corner side yards in cases where physical access to an interior side or rear yard is impractical.
- b.** The Zoning Administrator shall review the application and make findings of fact in accordance with Paragraph E (Findings of Fact) below, and shall approve, approve with conditions or deny the request. The Zoning Administrator shall render a decision within thirty (30) days of the date indicated on the required notice. If, in the Zoning Administrator's judgment, the application does not contain sufficient information to enable him to properly discharge his responsibilities, he may request additional information from the applicant. In that event, the thirty (30) day period shall be suspended pending receipt of all requested information. The Zoning Administrator may also, at his discretion, determine that, because of its nature, a variance application shall be resubmitted in accordance with the procedures for a minor or major variance, as described in Paragraphs D-2 (Minor Variance) or D-3 (Major Variance) below.

- c. If any noticed property owner objects to the administrative variance application in writing, prior to the date the Zoning Administrator is scheduled to render a decision, the application shall be resubmitted to the Zoning Board of Appeals as a minor variance. Minor variance application, notice and public hearing requirements shall be required.
- d. If the Zoning Administrator denies the application for an administrative variance, the applicant shall have the right to appeal to the Zoning Board of Appeals. Appeals must be filed within thirty (30) days of the Zoning Administrator's denial in accordance with Section 4.3 (Zoning Appeal).

2. Procedure for Minor Variance

- a. The Zoning Board of Appeals is authorized to render final decisions on applications for variances from the regulations of this Ordinance in the following instances and in no others:
 - i. A variance of the applicable minimum lot size requirements for single-family and two-family dwellings may be granted for a vacant lot provided that the minimum lot area shall not be reduced more than ten percent (10%), nor shall the minimum lot width requirements be reduced more than twenty-five percent (25%). If the requested variance exceeds this limitation (either lot area or lot width), the Zoning Administrator is not authorized to grant any part of the request. No variance may create a substandard lot out of an existing conforming lot. In some instances, a minimum lot width or lot area that does not meet Ordinance requirements may be controlled by the provisions of Section 15.5 (Nonconforming Lots of Record).
 - ii. A variance of the applicable bulk regulations, including minimum yard areas and maximum height and lot coverage requirements by no more than twenty percent (20%), and a variance of the floor area ratio for existing buildings by no more than ten percent (10%) of total floor area. No variance may be considered for floor area ratio of new construction.
 - iii. A variance to applicable off-street parking and loading requirements by no more than twenty-five percent (25%).
 - iv. A variance of the regulations pertaining to restoration of damaged or destroyed nonconforming structures contained in Section 15 (Nonconformities).
 - v. A variance to the maximum height of fences by no more than twenty percent (20%).
- b. The Zoning Board of Appeals shall conduct a public hearing in accordance with Section 3.4 (Public Hearing) within sixty (60) days of receipt of a complete application. Notice for the public hearing shall be in accordance with Section 3.3 (Public Notice). The Zoning Board of Appeals shall make findings of fact, based upon the evidence presented at the public hearing, with respect to each of the applicable standards in Paragraph E (Findings of Fact) below. If, in the Zoning Board of Appeal's judgment, the application does not contain sufficient information to enable the Board to properly discharge its responsibilities, the Board may request additional information from the applicant. In that event, the sixty (60) day period shall be suspended pending receipt of all requested information. Following the close of the public hearing and findings of fact, the Board shall grant or deny the minor variance within forty-five (45) days.

- c. The Zoning Board of Appeals may impose such conditions and restrictions upon the location, construction, design and use of the property benefited by a variance as may be necessary or appropriate to protect the public interest, adjacent property and property values. Failure to maintain such conditions or restrictions as may be imposed shall constitute grounds for revocation of the variance. The terms of relief granted, including any conditions or restrictions, shall be specifically set forth in the concluding statement separate from the findings of fact.

3. Procedure for Major Variance

- a. Major variances, defined as any variance other than those described in Paragraphs D.1 (Administrative Variance) and D.2 (Minor Variance) above, shall be reviewed by the Zoning Board of Appeals in a public hearing, but the Board shall have no authority to grant final approval for such major variances.
- b. The Zoning Board of Appeals shall conduct a public hearing in accordance with Section 3.4 (Public Hearing) within sixty (60) days of receipt of a complete application. The Zoning Board of Appeals shall make findings of fact, based upon the evidence presented at the public hearing, with respect to each of the standards in Paragraph E (Findings of Fact) below. If, in the Zoning Board of Appeal's judgment, the application does not contain sufficient information to enable the Board to properly discharge its responsibilities, the Board may request additional information from the applicant. In that event, the sixty (60) day period shall be suspended pending receipt of all requested information.
- c. The Zoning Board of Appeals shall recommend approval or approval with conditions, or shall deny the application. The Zoning Board of Appeals shall, within forty-five (45) days of the close of the public hearing, forward its recommendation to the City Council. If the Board shall vote to deny an application, such action shall constitute a final administrative decision.
- d. The City Council shall consider the major variance by enactment of an ordinance within thirty (30) days of receipt of the Zoning Board of Appeals recommendation. The City Council may also refer the application back to the Zoning Board of Appeals for further consideration.
- e. The Zoning Board of Appeals may recommend, and the City Council may impose, such conditions and restrictions upon the location, construction, design and use of the property benefited by a variance as may be necessary or appropriate to protect the public interest, adjacent property and property values. Failure to maintain such conditions or restrictions as may be imposed shall constitute grounds for revocation of the variance. The terms of relief granted, including any conditions or restrictions, shall be specifically set forth in the concluding statement separate from the findings of fact.

E. Findings of Fact

- 1. No variance from the provisions of this Ordinance shall be granted unless the Zoning Administrator, the Zoning Board of Appeals and City Council makes specific written findings of fact based directly on the standards and conditions imposed by this section. These standards are as follows:
 - a. The strict application of the terms of this Zoning Ordinance will result in undue hardship.
 - b. The plight of the owner is due to unique circumstances.

- c. The variance, if granted, will not alter the essential character of the locality.
- 2. The Zoning Administrator, Zoning Board of Appeals or City Council, in making its findings of fact, may inquire into the following evidentiary issues, as well as any others deemed appropriate:
 - a. The particular physical surroundings, shape or topographical conditions of the specific property impose a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
 - b. The alleged difficulty or hardship has not been created by any person presently having a proprietary interest in the property in question nor by any person in privity with the person having a proprietary interest.
 - c. The granting of the variance will not be detrimental to the public welfare in the neighborhood in which the property is located.
 - d. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase congestion in the public streets, increase the danger of fire, endanger the public safety or impair property values within the neighborhood.
 - e. The proposed variance is consistent with the spirit and intent of this Ordinance and the adopted Comprehensive Plan.
 - f. The value of the property in question will be substantially reduced if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located.

F. Variance Less Than Requested

A variance less than that requested may be granted by the appropriate administrative body when the record supports the applicant's right to some relief, but not to the entire relief requested.

G. Limitations on Variances

1. A variance shall expire and be of no further effect unless application for a zoning certificate is made within twelve (12) months of the grant of the variance; and (Ordinance 2009-50, 7/6/2009)
2. Construction, pursuant to a building permit has been commenced within twelve (12) months of the grant; and
3. An occupancy certificate is obtained and a use is commenced within twenty-four (24) months of the grant.

The Zoning Board of Appeals may grant additional extensions of time, not exceeding one hundred eighty (180) days each, upon written application made within the initial time periods without further notice or hearing. However, this power to so extend the time period shall not include the power to grant additional relief by expanding the scope of the variance.

H. Limitations on Denials

No application for a variance which has been denied by the City Council or Zoning Board of Appeals shall be reconsidered for a period of one (1) year from that date of denial.

4.5 SITE PLAN REVIEW

A. Purpose

The site plan review process is intended to promote orderly development and redevelopment in the City, and to assure that such development or redevelopment occurs in a manner that is harmonious with surrounding properties, is consistent with the Comprehensive Plan, and promotes the general welfare of the City. This section provides standards by which to determine and control the physical layout and design to achieve the:

1. Compatibility of land uses, buildings and structures.
2. Protection and enhancement of community property values.
3. Efficient use of land.
4. Minimization of traffic and safety hazards, and efficient parking layout.
5. Minimization of adverse impacts on the environment, including the incorporation of sustainable design and green architecture techniques. (Ordinance 2008-65, 9/2/2008)

B. Initiation

Applications for site plan reviews may be filed by an owner of any property in the City for that property. (Ordinance 2008-65, 9/2/2008)

C. Authority and Execution

All projects requiring a building permit, with the exception of those for single-family or two-family dwellings, shall first require that a site plan review be submitted for review and approval by the City. All applications are subject to site plan review by the Planning and Zoning Commission, except where allowed as an administrative site plan review, as noted in Section C.1.a. (Ordinance 2008-65, 9/2/2008)

D. Procedure (Ordinance 2008-65, 9/2/2008)

Applications for site plan review shall be filed with the Zoning Administrator in accordance with the requirements in Section 3.2 (Application). Once it is determined that the application is complete, the application shall be forwarded to the Planning and Zoning Commission, unless such application is eligible for administrative site plan review. (See Appendix B for Flowchart 3: Administrative Site Plan and Site Plan Review Process.)

1. Applications for Administrative Site Plan Review

a. Applications Eligible for Administrative Site Plan Review

The following uses require site plan approval by the Zoning Administrator only. The Zoning Administrator has the authority to require that the Commission review an application intended for administrative site plan review if it is appropriate because of the nature of the request.

- i. Stealth design of wireless telecommunications antennas, as defined in Section 10.3.R.10, that are permitted uses.
- ii. Large satellite dish antennas, as defined in Section 11.4.N.

- iii. New construction and modifications to existing ham radio antennas and equipment, subject to Section 11.4.B (Amateur (HAM) Radio Equipment); and except when site plan review is required by the Planning and Zoning Commission, as noted in Section 11.4.B.
- iv. Additions to or interior modifications to permitted uses within the commercial districts, where the existing structure contains a floor area of less than twenty thousand (20,000) gross square feet.
- v. All interior building modifications within the Hospital District, including a use change. Any maintenance or repair to buildings or structures within the Hospital District.
- vi. Outdoor cafes, accessory to a restaurant, subject to Section 11.4.J.

b. Procedure for Administrative Site Plan Review

- i. A decision on a completed administrative site plan review application shall be rendered by the Zoning Administrator within thirty (30) days of receipt of a complete application.
- ii. If, in the Zoning Administrator's judgment, the site plan review application does not contain sufficient information to enable the Zoning Administrator to properly discharge his responsibilities, the Zoning Administrator may request additional information from the applicant. In that event, the thirty (30) day period shall be suspended pending receipt of all requested information.
- iii. The Zoning Administrator may approve, approve with conditions or reject the site plan. The Zoning Administrator shall notify the applicant within fifteen (15) days of the action taken. The Zoning Administrator shall evaluate the site plan pursuant to the standards in Paragraph D (Standards for Site Plan Review).
- iv. If the Zoning Administrator rejects a site plan, the applicant may resubmit the site plan to the Planning and Zoning Commission, in accordance with the procedures in Paragraph C.2 (Site Plan Review by Planning and Zoning Commission) below.

2. Planning and Zoning Commission Site Plan Review

a. Applications Eligible for Site Plan Review by Planning and Zoning Commission

All applications for site plan review, except those set forth in Paragraph C.1.a above, shall be reviewed by the Planning and Zoning Commission.

b. Procedure for Site Plan Review by Planning and Zoning Commission

- i. A decision on a completed application for site plan review by the Planning and Zoning Commission shall be rendered within sixty (60) days of the date the complete application is received by the Zoning Administrator. Notice shall be given in accordance with Section 3.3.C (Posted Sign Notices).
- ii. If, in the Planning and Zoning Commission's judgment, the site plan review application does not contain sufficient information to enable the Commission to properly discharge its responsibilities, the Commission may request additional information from the applicant. In that event, the sixty (60) day period shall be suspended pending receipt of all requested information.

- iii. The Planning and Zoning Commission shall approve, approve with conditions or deny the site plan within sixty (60) days. The vote on every decision of the Planning and Zoning Commission, with respect to site plan review shall be included in the Commission's minutes. The Zoning Administrator shall notify the applicant within ten (10) days of the action taken. The Planning and Zoning Commission shall evaluate the site plan pursuant to the applicable standards in Paragraph D (Standards for Site Plan Review) below. Planning and Zoning Commission approval or denial of a site plan shall be considered a final administrative decision.

E. Standards for Site Plan Review (Ordinance 2008-65, 9/2/2008)

Each site plan submitted for review shall include the following details: the location of principal and accessory structures, infrastructure, open space, landscaping, exterior lighting, traffic movement and flow, number of parking spaces, design of parking lots, and location of landscaping and screening.

In reviewing site plans, the relationship of the site plan to the following shall be considered:

1. Degree of conformity with this Ordinance and all other applicable City codes and regulations.
2. Compatibility with the goals and objectives of the Comprehensive Plan.
3. **Site Design**

The location, arrangement, size, design and general site compatibility of buildings, lighting and signs, including:

- a. Efficient use of land that responds to the existing off-site utilities and service conditions in order to minimize the demand for additional municipal services, utilities and infrastructure.
- b. Compatibility with, and mitigation of, any potential impact upon, adjacent property.
- c. Site illumination designed and installed to minimize adverse impact on adjacent properties, including compliance with the requirements of Section 11.3 (Exterior Lighting).
- d. Signs in accordance with Section 14 (Signs). If the site plan is submitted for a strip commercial development with multiple tenants, with more than one (1) wall sign, awning or canopy proposed, a master sign plan, in accordance with Section 14.10 (Master Sign Plan Required) is required.

4. **Landscaping, Screening and Open Space**

Landscaping and the arrangement of open space or natural features on the site should:

- a. Create a desirable and functional environment for motorists, pedestrians, bicyclists and occupants of residential dwellings, business owners and employees. To achieve such an environment, landscaping may take advantage of open space design features such as bike paths, running paths and outdoor relaxation areas.

- b. Utilize sustainable design techniques such as: green roofs and other energy efficient design concepts; water conservation; environmental sensitivity; new building technologies; Leadership in Energy and Environmental Design (LEED) techniques; and xeriscaping (water conservation landscaping).
- c. Preserve unique natural resources, including measures to preserve and protect existing healthy, mature trees in accordance with the tree preservation ordinance of in Article 15, Chapter 18 of the City's Municipal Code.
- d. Protect natural resources and landscaping on adjacent sites.
- e. Design drainage facilities to promote the use and preservation of natural watercourses and patterns of drainage.
- f. Utilize plant materials suitable to withstand the climatic conditions of the City and microclimate of the site. The use of species native to northeastern Illinois is encouraged.
- g. Use of screening to buffer the impact of the development on adjacent uses and enhance the appearance and image of the City by screening incompatible uses and certain site elements, as described in Sections 13.13 (Transition Yards) and 13.14 (Screening Requirements), and creating a logical transition to adjoining lots and developments.

5. Circulation and Off-Street Parking

Circulation systems and off-street parking shall be designed to:

- a. Provide adequate and safe access to the site for motor vehicles as well as alternate modes of transportation, including pedestrians and bicyclists.
- b. Minimizing potentially dangerous traffic movements.
- c. Separate pedestrian and auto circulation and provide for bicycle parking or storage insofar as practical.
- d. Minimize curb cuts by using cross-access easements and shared parking.
- e. Design off-street parking lots or garages to minimize adverse impacts on adjacent properties, particularly through the use of perimeter and interior landscaping, and promote logical and safe parking and internal circulation.
- f. Clearly define pedestrian access from the parking area to the building(s). A clearly defined visible and identifiable network of pedestrian connections should be provided in and between parking lots, street sidewalks, open spaces and buildings.
(Ordinance 2008-65, 9/2/2008)

F. Amendments to Approved Site Plan Reviews

1. Application

An application for an amendment to an approved site plan shall be submitted to the Zoning Administrator. Amendment applications shall include a written description of the proposed change, including the reason for such change, and a notation of the location on the approved site plan.

2. Determination of Type of Change

Upon receipt of a complete application and using the following criteria, the Zoning Administrator shall determine within five (5) days whether the proposed amendment constitutes a minor or major change to an approved site plan. Major changes to an approved site plan shall include, but are not limited to:

- a. An increase in the gross floor area.
- b. A change in building height.
- c. A change in the number of dwelling units.
- d. A reduction in open space or required yards.
- e. A reduction in the number of parking spaces or an increase of more than four (4) parking spaces.
- f. A change in the number and/or location of accesses to public streets or alleys.
- g. A change in excess of one (1) foot in the location of walkways, vehicle circulation ways and parking areas, or exterior building or structure walls.
- h. A change to the landscape plan that results in a reduction in the net amount of plant material.

A minor change is considered any change that is not a major change, as defined above.

3. Approved Site Plan Review Minor Change Procedure

- a. The Zoning Administrator shall approve minor changes to approved site plans within thirty (30) days of receipt of the complete application. The thirty (30) day timeframe shall commence after the determination that the change is a minor change in accordance with Paragraph 2 above. If, in the Zoning Administrator's judgment, the application does not contain sufficient information to enable him/her to properly discharge his responsibilities, he may request additional information from the applicant. In that event, the thirty (30) day period shall be suspended pending receipt of all requested information.
- b. The Zoning Administrator may also, at his discretion, determine that a proposed change to an approved site plan constitutes a major change and, as such, must be submitted to the full Planning and Zoning Commission in accordance with the procedures for a major change.
- c. If the Zoning Administrator does not approve the minor change, the application may be submitted to the Planning and Zoning Commission in accordance with the procedures for a major change.

4. Approved Site Plan Review Major Change Procedure

- a. Once reviewed for completeness, the Zoning Administrator shall forward the complete application to the Planning and Zoning Commission for approval.

- b. The Planning and Zoning Commission shall consider amendment applications within thirty (30) days of receipt of a complete application. If, in the Planning and Zoning Commission's judgment, the application does not contain sufficient information to enable the Commission to properly discharge its responsibilities, the Commission may request additional information from the applicant. The Planning and Zoning Commission shall provide its decision in writing, along with reasons for approval or denial. In the event that the Planning and Zoning Commission does not render a decision within the prescribed time period, the amendment application shall be deemed to be denied.
- c. The Planning and Zoning Commission may decide that the proposed change or changes to the approved site plan is such a significant change that it constitutes a new application and is subject to the complete site plan review provisions of this section.

5. Submittal of Revised Site Plan

The Zoning Administrator or Planning and Zoning Commission may determine that a proposed amendment to an approved site plan requires submittal of a revised site plan for proper evaluation. Such revised site plan shall only include those components of the site plan submittal package impacted by the proposed change. Until such revised site plan is submitted, the application shall not be considered complete.

Nothing within this section shall prevent an applicant from submitting a revised site plan with the amendment application at the time of initial submission.

4.6 SPECIAL USE

A. Purpose

The development and execution of a Zoning Ordinance is based upon the division of the City into districts. Within each district the use of land and buildings, and the bulk and location of buildings and structures in relation to the land, are substantially uniform. It is recognized, however, that there are specific uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. Such uses may be either public or private, and are of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

B. Initiation

Applications for special uses may be filed by an owner of any property in the City for that property to use that land for one (1) or more of the special uses provided for in this Ordinance within the zoning district in which the land is situated or to change an existing special use. (Ordinance 2008-65, 9/2/2008)

C. Authority and Execution

The City Council, after receiving a recommendation from the Planning and Zoning Commission, shall take formal action on special use requests.

D. Procedure

Applications for special uses shall be filed with the Zoning Administrator in accordance with the requirements in Section 3.2 (Application). Upon receiving a complete application, the Zoning Administrator shall schedule the application for consideration by the Planning and Zoning Commission. (See Appendix B for Flowchart 4: Special Use Process.)
(Ordinance 2008-65, 9/2/2008)

1. Action by the Planning and Zoning Commission

- a.** The Planning and Zoning Commission shall conduct a public hearing on a proposed special use in accordance with Section 3.4 (Public Hearing) no more than sixty (60) days of receipt of a complete application. Notice for the public hearing shall be in accordance with Section 3.3 (Public Notice). If, in the Planning and Zoning Commission's judgment, the application does not contain sufficient information to enable the Commission to properly discharge its responsibilities, the Commission may request additional information from the applicant. In that event, the sixty (60) day period shall be suspended pending receipt of all requested information.
- b.** Following a public hearing on an application for special use, the Planning and Zoning Commission shall determine whether or not to recommend approval of the special use. The Planning and Zoning Commission shall, within forty-five (45) days of the close of the public hearing, forward its recommendation or approval or approval with conditions to the City Council. If the Commission shall vote to deny the application, such action shall constitute a final administrative decision.
- c.** The Planning and Zoning Commission shall vote to recommend either approval or approval with conditions of the special use, and such recommendation shall be forwarded to the City Council together with the minutes of the hearing and the Commission's findings of fact. The Planning and Zoning Commission shall make findings of fact, based upon the evidence presented at the public hearing, pursuant to each of the applicable standards in Paragraph E (Findings of Fact) below and the standards of Section 4.5.D (Standards for Site Plan Review). If the Planning and Zoning Commission shall vote to deny the special use application, such action shall constitute a final administrative decision.

2. Action by the City Council

The City Council shall consider the special use within thirty (30) days of receipt of the Planning and Zoning Commission recommendation. In granting any special use, the City Council may require such evidence and guarantees as it may deem necessary to assure compliance with the stipulated conditions. The City Council may refer the application back to the Planning and Zoning Commission for further consideration.

3. Conditions on Special Uses

- a.** The Planning and Zoning Commission may recommend, and the City Council may impose, such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special use as may be deemed necessary for the protection of the public interest.

- b. Furthermore, the Planning and Zoning Commission may recommend and the City Council may approve “exceptions” to the zoning district requirements where the special use is to be located to achieve the objectives of the zoning district and the special use, and to mitigate the impact of the special use on neighboring properties. However, no exceptions shall be recommended by the Planning and Zoning Commission to the City Council unless the Commission has made separate findings of fact, based upon the evidence as presented at public hearing, to support each of the applicable standards for special use in accordance with Paragraph E (Findings of Fact) below.

E. Findings of Fact

1. No special use shall be recommended for approval by the Planning and Zoning Commission unless it has made findings of fact, based upon the evidence presented at the public hearing, to support each of the following conclusions:
 - a. The establishment, maintenance and operation of the special use in the specific location proposed will not endanger the public health, safety or general welfare of any portion of the community.
 - b. The proposed special use is compatible with adjacent properties and other property within the immediate vicinity of the special use.
 - c. The special use in the specific location proposed is consistent with the spirit and intent of this Ordinance and the Comprehensive Plan.
2. The Planning and Zoning Commission, in making findings of fact, may inquire into the following evidentiary issues, as well as any others it determines to be appropriate:
 - a. Whether property values in the immediate vicinity of the special use will be diminished or impaired.
 - b. Ingress and egress to the subject property and its proposed structures, with particular attention to automotive and pedestrian safety and convenience, traffic flow and control, including access by emergency vehicles.
 - c. Off-street parking and loading areas proposed for the special use, with particular attention to the location and adequacy of such facilities.
 - d. The operational characteristics of the proposed special use and their effects on adjacent properties. Particular attention shall be given to the hours of operation, noise, glare, odor, refuse storage and other relevant environmental factors.
 - e. Utilities and storm drainage facilities as proposed, with reference to their location, availability, adequacy and compatibility.
 - f. Screening, landscaping and buffering, with specific reference to the type proposed, the dimensions and character, and the effectiveness in shielding adjacent properties.
 - g. Signs and proposed exterior lighting with reference to glare, traffic safety and compatibility and harmony with adjacent properties.
 - h. The quantity and degree of deviation from the applicable requirements of the district in which the subject property is located, as balanced against the desirability of the special use.

F. No Presumption of Approval

The listing of a use as a special use within a zoning district does not constitute an assurance or presumption that such special use will be approved. Rather each proposed special use shall be evaluated on an individual basis, in relation to all applicable standards of this Ordinance. Such evaluation will determine whether approval of the special use is appropriate at the particular location and in the particular manner proposed.

G. Limitations on Special Uses

1. If work on the proposed development has not begun within two (2) years from the date the special use was granted by the City Council, the special use shall become null and void and all rights granted pursuant to the special use shall lapse. Upon written application, filed with the Zoning Administrator prior to the expiration of the two (2) year time limit, the City Council may authorize not more than one (1) extension for a period of not more than one (1) additional year.
2. Whenever an existing special use is changed to or replaced by a permitted use, or whenever a special use is discontinued for a period of six (6) consecutive months, or where there is evidence of a clear intent on the part of the owner of the special use to abandon same, the special use shall become null and void and all rights thereunder shall lapse. In the case where a special use is discontinued, upon written application filed with the Zoning Administrator prior to the expiration of the six (6) month time limit, the City Council may authorize not more than one (1) extension for a period of not more than six (6) additional months.
3. Modification of an element of an existing special use which is material to its nature (such as structural change, relocation or change in use) shall be authorized only in accordance with the same procedures as those required by this Ordinance for a new special use.

H. Limitations on Denials

No application for a special use, which has been denied, by the City Council or Planning and Zoning Commission shall be reconsidered for a period of one (1) year from that date of denial.

4.7 PLANNED DEVELOPMENT

Where permitted within district regulations, planned developments shall be considered special uses, and subject to the process and requirements of both special uses (Section 4.6 (Special Uses) above) and planned developments. See Section 5 (Planned Developments) of this Ordinance for planned development process and requirements.

4.8 ZONING AMENDMENT (Ordinance 2009-81, 11/16/2009)

A. Purpose

The regulations imposed and the districts created by this Ordinance may be amended from time to time in accordance with this Section. This process for amending the Zoning Ordinance text or the Zoning Map is intended to permit modifications in response to changed conditions or changes in City policy. Amendments are not intended to relieve particular hardships or confer special privileges or rights upon any person or party.

B. Initiation

Applications for zoning amendments (text or map amendments) may be filed by the City or by an owner of any property that is in the City. (Ordinance 2008-65, 9/2/2008)

C. Procedure

Applications shall be filed with the Zoning Administrator, in accordance with the requirements of Section 3.2 (Application). Upon receiving a complete application, the Zoning Administrator shall schedule the application for consideration by the Planning and Zoning Commission. Amendments initiated by the City also require an application, but are exempt from fees. (See Appendix B for Flowchart 5: Zoning Text and Map Amendment Process.)

(Ordinance 2008-65, 9/2/2008)

1. Action by the Planning and Zoning Commission

- a.** The Planning and Zoning Commission shall conduct a public hearing on a proposed zoning amendment, in accordance with Section 3.4 (Public Hearing) no more than sixty (60) days after receipt of a complete application. Notice for the public hearing shall be in accordance with Section 3.3 (Public Notice). If, in the Planning and Zoning Commission's judgment, the application does not contain sufficient information to enable the Commission to properly discharge its responsibilities, the Commission may request additional information from the applicant. In that event, the sixty (60) day period shall be suspended pending receipt of all requested information.
- b.** The Planning and Zoning Commission shall make findings of fact, based upon the evidence presented at the public hearing, pursuant to each of the applicable standards in Paragraph D (Findings of Fact for Zoning Amendments) below.
- c.** Within forty-five (45) days of the close of the public hearing, the Planning and Zoning Commission shall forward to the City Council its recommendation, together with the minutes of the hearing and the Commission's findings of fact. The Commission recommendation may take the form of approval or denial. If the requested amendment is a text amendment, the recommendation shall include the Commission's proposed language.

2. Action by the City Council

- a.** Procedure. Subject to the Zoning Amendment Action Table set forth in (b) below; consideration of the Planning and Zoning Commission recommendation shall be placed on a City Council agenda within thirty (30) days. The City Council may take action in the form of approval or denial. In the case of text amendments, the City Council shall not be bound by the precise language of the Commission recommendations. The City Council may also refer the application back to the Commission for further consideration.

- b. City Council Zoning Amendment Action Table. The following table describes the action requirements for the various zoning amendments.

ZONING AMENDMENT ACTION TABLE				
Type of Amendment Request	Planning and Zoning Commission Recommendation After Public Hearing	Initiating Party	Further Action	City Council Vote Required for Adoption
Text	Denial	City Council	Forwarded to City Council	Super majority
Text	Denial	Anyone Other Than City Council	Forwarded to City Council	Super majority
Text	Approval	City Council	Forwarded to City Council	Majority
Text	Approval	Anyone Other Than City Council	Forwarded to City Council	Majority
Map	Denial	City Council	Forwarded to City Council	Super majority
Map	Denial	Anyone Other Than City Council	Forwarded to City Council	Super majority
Map	Approval	City Council	Forwarded to City Council	Majority
Map	Approval	Anyone Other Than City Council	Forwarded to City Council	Majority

D. Findings of Fact for Zoning Amendments

The Planning and Zoning Commission recommendation and City Council decision on any zoning amendment, whether text or map amendment, is a matter of legislative discretion that is not controlled by any particular standard. However, in making a recommendation and decision, the Planning and Zoning Commission and City Council shall consider the following standards, as set forth in Table 1: Standards for Zoning Amendments below.

TABLE 1: STANDARDS FOR ZONING AMENDMENTS		
Standards	Map Amendments	Text Amendments
The existing use and zoning of nearby property.	X	
The extent to which property values of the subject property are diminished by the existing zoning.	X	
The extent to which the proposed amendment promotes the public health, safety, comfort, convenience and general welfare of the City.	X	X
The relative gain to the public, as compared to the hardship imposed upon the applicant.	X	X
The suitability of the property for the purposes for which it is presently zoned, i.e. the feasibility of developing the property in question for one (1) or more of the uses permitted under the existing zoning classification.	X	
The length of time that the property in question has been vacant, as presently zoned, considered in the context of development in the area where the property is located.	X	
The evidence, or lack of evidence, of community need for the use proposed by the applicant.	X	
The consistency of the proposed amendment with the Comprehensive Plan.	X	X

TABLE 1: STANDARDS FOR ZONING AMENDMENTS		
Standards	Map Amendments	Text Amendments
The consistency of the proposed amendment with the intent and general regulations of this Ordinance.		X
Whether the proposed amendment corrects an error or omission, adds clarification to existing requirements, or reflects a change in policy.		X
That the proposed amendment will benefit the residents of the City as a whole, and not just the applicant, property owner(s), neighbors of any property under consideration, or other special interest groups, and the extent to which the proposed use would be in the public interest and would not serve solely the interest of the applicant.	X	X
Whether the proposed amendment provides a more workable way to achieve the intent and purposes of this Ordinance and the Comprehensive Plan.		X
The extent to which the proposed amendment creates nonconformities.	X	X
The trend of development, if any, in the general area of the property in question.	X	
Whether adequate public facilities are available including, but not limited to, schools, parks, police and fire protection, roads, sanitary sewers, storm sewers, and water lines, or are reasonably capable of being provided prior to the development of the uses, which would be permitted on the subject property if the amendment were adopted.	X	
The extent to which the proposed amendment is consistent with the overall structure and organization of this Ordinance.		X

E. Limitations on Denials

No application for an amendment which has been denied by the City Council shall be reconsidered for a period of one (1) year from that date of denial.

4.9 ZONING CERTIFICATE

A. Purpose

The purpose of a zoning certificate is to promote Ordinance compliance by establishing a procedure for the City to certify that an application complies with all standards of the Ordinance.

B. Applicability

No structure shall be constructed, reconstructed, remodeled, added to or removed, nor shall any building permit pertaining to the above activities be issued, nor shall any existing structure or vacant land be used for any different use or purpose, unless a zoning certificate shall first have been issued by the Zoning Administrator certifying that the proposed structure or use complies with all the provisions of this Ordinance.

C. Procedure

The Zoning Administrator shall be responsible for issuing zoning certificates. Application for a zoning certificate for the construction of a new building or for structural alteration of an existing building shall be made at the same time as the application for a building permit. Application for a zoning certificate for a change in the use of land or of a building, or for a change in a nonconforming use shall be made to the Zoning Administrator. Within fifteen (15) days of receipt of a complete application, the Zoning Administrator shall either approve or disapprove the application.

D. Limitations on Zoning Certificates

1. Whenever a building permit is required, an approved zoning certificate shall become null and void six (6) months after the date of issuance of such certificate, unless a building permit is issued within the six (6) month period or an extension is granted by the Zoning Administrator.
2. When a building permit is not required, an approved zoning certificate shall become null and void three (3) months after the date of issuance of such certificate, unless the proposed use or other activity not requiring a building permit is commenced or an extension is granted by the Zoning Administrator.

4.10 SIGN PERMIT

A. Applicability

No sign, except those identified as exempt in Section 14 (Signs), shall be erected, constructed, altered or relocated without first obtaining a sign permit.

B. Authority and Execution

The Zoning Administrator shall be responsible for determining compliance with this Ordinance. The Zoning Administrator and Building Official shall be responsible for issuing a sign permit. The Appearance Commission shall approve all awning and canopy signs, ground monument and pole signs, marquees, projecting signs and wall signs.
(Ordinance 2008-65, 9/2/2008)

C. Permit Issuance

Upon the filing of an application for a permit for erection, alteration or relocation of a sign, the Zoning Administrator shall determine whether the application is complete. If the application is not complete, the Zoning Administrator shall notify the applicant of any deficiencies, and shall take no steps to process the application until the deficiencies are remedied. Once it is determined that the application is complete, the Zoning Administrator shall:

1. Examine the plans and specifications and the premises upon which the proposed structure is to be erected.
2. Issue a permit if the structure complies with the requirements of this Ordinance and all other ordinances of the City. If the work authorized under a sign permit is not completed within six (6) months after the date of issuance, the permit becomes null and void.
3. Forward all applications for wall and ground signs to the Appearance Commission for approval.

D. Approval of Selected Permanent Signs

The application for a sign permit for the erection of an awning or canopy sign, ground monument or pole sign, marquee, projecting sign or wall sign shall be submitted to the Zoning Administrator, who shall forward the application to the Appearance Commission. The Appearance Commission shall review and approve all plans and specifications as a condition of granting the sign permit. (Ordinance 2008-65, 9/2/2008)

E. Approval of Electrified Signs

The application for a sign permit for the erection of a sign in which electrical wiring and connections are to be used shall be submitted to the Zoning Administrator, who shall forward the specifications regarding all wiring and connections to the Building Official. The Building Official shall examine the plans and specifications to determine compliance with the Electrical Code of the City as a condition of granting the sign permit.

F. Inspection

The Zoning Administrator may inspect, at such times as deemed appropriate, each sign or other advertising structure regulated by this Ordinance. The purpose of the inspection is to ascertain whether the structure is secure or insecure, whether in need of repair or removal, or not in conformance with the permit application or otherwise in violation of the provisions of this Chapter.

G. Revocation of Permit

All rights and privileges acquired under the provisions of this section are mere licenses revocable at any time by the City Council. Upon the termination or revocation of the sign permit, the licensee shall remove the sign or other advertising structure without cost or expense of any kind to the City. In the event of the failure, neglect or refusal on the part of the licensee to do so, the City may proceed to remove the same and charge the expense to the licensee.

4.11 PENALTIES AND FINES

Any person, firm, or corporation violating any of the terms or provisions of this Ordinance shall be fined not less than two hundred fifty dollars (\$250.00) for the first violation, not less than five-hundred dollars (\$500.00) for any subsequent violation and not more than two-thousand five-hundred dollars (\$2,500.00) for any violation. Each day such violation is committed or permitted to continue or exist shall constitute a separate offense.