

7. SPECIAL DEVELOPMENT APPROVALS

A. VARIANCES

1. PURPOSE

Because of special characteristics of particular properties in the City, the literal application of the provisions of this Ordinance may in certain instances create hardships or practical difficulties not intended by these regulations. The Zoning Board of Appeals may accordingly recommend, and the City Council may grant, variances from the literal application of the provisions of this Ordinance based on findings of fact as provided in this chapter. Variances herein shall be considered the same as variations under the Illinois Revised Statutes.

2. APPROVAL PROCESS

Variances shall be approved only in conformance with the Approval Process provided in the Filing Procedures section of this Ordinance and the Approval Criteria in Table 7A.

3. EXISTING VARIANCES

Any lawful variance previously granted to any lawful use existing on the date of adoption of this Ordinance or any amendment thereto that requires a variance under such Ordinance or amendment, shall be considered a lawful variance without the need for approval of a variance hereunder. Variances shall be transferable and shall run with the land.

Table 7A: Approval Criteria for Variances

In recommending or granting approval or conditional approval of a variance, the Board of Zoning Appeals and the City Council shall prepare written findings of fact that all of the conditions below apply to the application:

1. Special Circumstances

Special circumstances exist relating to the physical character of the property that are peculiar to the property and that do not apply generally to other properties in the same zoning district. And these circumstances are not of so general or recurrent a nature as to make it practical to provide, in the form of an amendment to this Ordinance, a general rule to cover them.

2. Hardship or Practical Difficulties

Because of these special circumstances, the literal application of the provisions of this Ordinance would, without a variance, result in unnecessary and undue hardship or practical difficulties for the applicant, as distinguished from mere inconvenience.

3. Not Resulting from Applicant Action

The special circumstances, practical difficulties, or hardship that are the basis for the variance have not resulted from any act, undertaken subsequent to the adoption of this Ordinance or any applicable amendment thereto, of any party with a present interest in the property.

4. Reasonable Use and Return

Without the requested variance, the property cannot yield a reasonable return, or cannot be reasonably used consistent with the intent of the zoning district and the use of other properties therein, but the purpose of the variance is not otherwise to increase the return from the property or to confer special privileges not ordinarily enjoyed by other properties in the same district.

5. Not Alter Local Character

The variance will not alter the essential character of the locality or substantially impair public safety or welfare or property values in the area.

6. Minimum Variance Needed

The variance approved is the minimum required to allow reasonable use and enjoyment of the property.

B. AMENDMENTS AND REZONINGS

1. PURPOSE

To adapt to changing development conditions and provide for the phased implementation of the City Comprehensive Plan, the Plan Commission may from time to time recommend, and the City Council may adopt, amendments to the provisions of the text of this Ordinance, or the Zoning District Map, as provided by the Illinois Revised Statutes.

2. APPROVAL PROCESS

Amendments shall be approved in conformance with the Approval Process provided in the Filing Procedures section of this Ordinance. Map amendments shall be approved only in conformance with applicable Approval Criteria in Table 7B.

**Table 7B: Approval Criteria for Zoning Map
Amendments (Rezoning)**

In recommending approval or conditional approval of a map amendment (rezoning), the Plan Commission shall transmit to the City Council written findings of fact that all of the conditions below apply to the application. In granting approval or conditional approval, the City Council shall similarly find that all of the following conditions apply:

1. Compatible With Use or Zoning of Environs

The proposed use(s) or the uses permitted under the proposed zoning classification are compatible with existing uses or existing zoning of property in the environs.

2. Supported by Trend of Development

The trend of development in the general area since the original zoning of the affected property was established supports the proposed use of zoning classification.

3. Consistent With Comprehensive Plan Objectives

The proposed use or zoning classification is in harmony with the objectives of the Comprehensive Plan of the City as viewed in light of any changed conditions since its adoption.

4. Furthers Public Interest

The proposed use or zoning classification promotes the public interest and not solely the interest of the applicant.

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C. SPECIAL USES

1. PURPOSE

Certain uses cannot be allowable generally in a particular zoning district, or in any zoning district, because of the impact their special character creates on surrounding areas.

Some such uses may, however, be allowed under special conditions. These uses are provided for in this Ordinance as Special Uses.

Because a Special Use is compatible with the applicable zoning district only under special conditions, a Special Use Permit is required before any use authorized herein as a Special Use may be established.

Except as specifically provided herein, all regulations of the applicable zoning district, and all other applicable regulations of this and other City ordinances, shall apply to Special Uses.

2. APPROVAL PROCESS

Special Uses shall be approved by the Plan Commission only in conformance with the Approval Process provided in the Filing Procedures section of this Ordinance, the applicable Approval Criteria in Table 7C, and other applicable provisions of this Ordinance.

3. EXISTING USES

Any lawful use existing on the date of adoption of this Ordinance or any amendment thereto that requires Special Use approval under such Ordinance or amendment, shall be considered a lawful Special Use without the need for approval of a Special Use Permit hereunder whether or not a Special Use Permit was ever issued prior to such date. It shall be the responsibility of the user of the property to provide evidence of the existence of the use on or prior to such date.

Any change in the operation of a use that does not conform with conditions attached to a previous and applicable Special Use Permit Approval and all changes from the Approved Special Use Permit involving an increase in the occupant capacity of a structure, in the building footprint, the volume of the structure, or in the area of parking lot pavement on the site subsequent to such Approval date shall require the approval of a new Special Use Permit. (Ord. 2276, 4-18-06)

4. REVIEW OF SPECIAL USES

In evaluating the suitability of a proposed Special Use, the Plan Commission and City Council shall examine the following characteristics of the proposed use and its individual structures or components:

- a. Location and orientation
- b. Lot size
- c. Size of facility, including floor area, structure height, design capacity, and anticipated employment.
- d. Site design and arrangement
- e. Provisions affecting on- and off-site pedestrian and traffic movement, vehicle storage, and the passage of emergency vehicles
- f. Appearance
- g. Screening or landscaping
- h. On- or off-site buffering from incompatible uses with open spaces or transitional uses

- i. Operations factors, such as hours of use or environmental controls
- j. Other characteristics of the proposed use pertinent in the judgment of the Commission or Council to an assessment of the impact of the use on the area

The Commission may recommend, and the Council may require, such conditions relating to any of the above characteristics as it may judge necessary to allow the use to conform to the Approval Criteria in Table 7C.

The Commission or Council may call upon technical experts or have studies performed to determine specific development standards or conditions for any particular Special Use.

5. EXPANSION OR ALTERATION

A new Special Use Permit shall be required for any existing Special Use that expands its operations in conflict with conditions attached to an existing valid Special Use Permit approval, and/or increases (i) the occupant capacity of the structure, (ii) the building footprint of the structure, (iii) the volume of the structure, or (iv) the area of parking lot pavement on the site. (Ord. 2276, 4-18-06)

Table 7C: Approval Criteria for Special Uses

In recommending or granting approval or conditional approval of a Special Use, the City Council and Plan Commission shall prepare written findings of fact that on the basis of the characteristics cited under Review of Special Uses herein -- or changes to such characteristics that conditions to which the approval is made subject require -- the proposed use will be compatible with existing uses in the area, and with Permitted Uses in the zoning district, in the following ways:

1. Traffic

Any adverse impact of types or volumes of traffic flow not otherwise typical in the zoning district has been minimized.

2. Environmental Nuisance

Any adverse effects of noise, glare, odor, dust, waste disposal, blockage of light or air, or other adverse environmental effects of a type or degree not characteristic of Permitted Uses in the zoning district, have been appropriately controlled.

3. Neighborhood Character

The proposed use will fit harmoniously with the existing natural or man-made character of its surroundings and with Permitted Uses in the zoning district. The use will not have undue deleterious effect on the environmental quality, property values, or neighborhood character already existing in the area or normally associated with Permitted Uses in the district.

4. Public Services and Facilities

The proposed use will not require existing community facilities or services to a degree disproportionate to that normally expected of Permitted Uses in the district, nor generate disproportionate demand for new services or facilities as compared with the Permitted Uses, in such a way as to place undue burdens upon existing development in the area.

5. Public Safety and Health

The proposed use will not be detrimental to the safety or health of the employees, patrons, or visitors associated with the use nor of the general public in the vicinity.

6. Other Factors

The proposed use is in harmony with any other elements of compatibility pertinent in the judgment of the Commission or Council to the particular Special Use or its particular location.

D. SITE PLAN APPROVAL

No building permit or Certificate of Occupancy shall be issued in any district for any non single-family or non two-family use that involves a change and increase in the intensity of the basic land use occurring on the property (examples include changing from residential to office, residential to institutional, office to restaurant, etc.), increases in the occupant load of the structure, increases in the building footprint of the existing principal structures, increases in the volume of the principal structures, and/or increases in the area of parking lot pavement located on the site without:

- a. submission of a Site Plan as provided under Site Plan Review in Table 2C; and
- b. determination by the Zoning Administrator and by the City Council, prior to issuance of any such Permit or Certificate, that such Plan is in compliance with applicable provisions of this and other applicable City ordinances except where variances thereto have been approved as provided therein. Such compliance shall include the provision for, and financial sureties to guarantee the installation of, such public and private improvements as are required by Subdivision Control Ordinance No. 807, whether or not a subdivision of land is proposed.

Neither the Zoning Administrator nor the City Council shall deny any such Permit or Certificate, or make approval thereof subject to conditions, except on the basis of noncompliance of the application therefor with applicable City Ordinances including the City roadway improvement requirements outlined in Section 7-2-3-1 of the City of Warrenville City Code.

The City's review and approval of a Variance, Special Use Permit, and Final PUD Plan shall satisfy the Site Plan Approval Requirements of this Section. (Ord. 2276, 4-18-06)

E. UNLISTED USES

The City Council may, by amendment to the district regulations, allow in any district a use not listed as a Permitted or Special Use in that district if:

- 1. the use is not listed either as a Permitted or Special Use in any district in the Ordinance, and
- 2. the Council deems the use similar in nature to another use listed as a Permitted or Special Use in the same district with respect to:
 - a. types of goods or services produced or sold
 - b. generation of automobile, truck, or pedestrian traffic
 - c. hours of operation
 - d. general effect upon its environs.

Provisions and restrictions herein applicable to the listed use shall also apply to the unlisted use to which it is judged similar. The Zoning Administrator may make a recommendation to the Council on the approval of such uses.

F. CONDITIONAL USE - OUTDOOR DISPLAY

The City of Warrenville may allow a business to display items outdoors for the convenience of the customer provided that (a) the business holds a valid annual, seasonal or temporary conditional display permit as may be applicable, (b) is located in B-2 or B-4 Zoning District, (c) has submitted a site plan indicating the location of display areas and (d) observes the following:

- (1) The items are displayed wholly upon the parcel on which the principal sales structure is located.
- (2) The display does not utilize any required parking spaces and does not disrupt the flow of vehicular or pedestrian traffic. No display shall be allowed in required landscape areas.
- (3) No item shall be displayed at a location where the width of paved clear space for the passageway of pedestrians is reduced to less than five (5) feet.
- (4) No items shall be placed in required front or required corner side yard setbacks applicable to the principal structure or designated fire lanes or public right of way. (Ord. 1963, 2-25-02)
- (5) No item shall be stacked higher than six (6) feet. Single items representative of stock stored indoors may exceed six (6) feet. A lesser height can be designated by the City Building Department if it is determined that a height condition exists which is hazardous to public safety.
- (6) Items shall be set back six (6) inches from any building.
- (7) No item may be displayed within five (5) feet of any fire department connection.
- (8) No hanging material may be placed in pedestrian or vehicular passages.
- (9) The following items may be displayed outdoors on an annual basis provided the area is accessible to retail customers:
 - (a) Bulk salt, when screened from residential view.
 - (b) Fire wood, if stacked neatly in cord fashion and when screened from residential view.
 - (c) Nursery stock.
 - (d) LP gas.
 - (e) Garden sheds.
 - (f) Swing sets.
 - (g) Other similar merchandise customarily displayed outdoors on an annual basis and as approved by the Community Development Director. (Ord. 1917, 6-20-01) (Ord. 1963, 2-25-02)
- (10) Other merchandise may be displayed outdoors on a seasonal basis. "Seasonal Merchandise" shall mean single items representative of stock which are not normally sold throughout the year and are displayed and sold during the time of year for which they are appropriate or for which they are intended to be used. The following items may be displayed outdoors on a seasonal basis provided the area is accessible to retail customers:
 - (a) Soda pop and water.
 - (b) Charcoal.
 - (c) Mulch.
 - (d) Christmas trees and pumpkins may be displayed outdoors for one (1) period of thirty (30) consecutive days only between October 1st and December 31st.

- (e) Other similar merchandise customarily displayed outdoors on a seasonal basis and as approved by the Community Development Director. (Ord. 1963, 2-25-02)
- (11) General merchandise representative of merchandise normally displayed and sold within the principal structure of a particular property may be displayed in conjunction with temporary outdoor sales of no more than fourteen (14) days. Merchandise must be placed inside the principal structure or a substitute enclosed structure before the close of the business day. All temporary sales shall be conducted by a business permanently operating from the property on which the temporary outdoor sale will occur. No more than two (2) temporary sales may be permitted per calendar year unless approved by the City Council. (Ord. 1917, 6-20-01)
- (12) Outdoor display shall be subject to the permit procedures set forth in Title 3, Chapter 11 of the City Code.
- (13) The Building and Code Enforcement Department will issue conditional display permits for annual, seasonal and temporary outdoor display. The term of any permit shall not exceed one (1) calendar year, with all renewals due on January 1. The Department will determine if the site plan conforms with these standards and general public safety. Code Enforcement Officials shall have the authority to revoke the conditional display permit and remove or cause to be removed items from outdoor display should they not conform to the approved outdoor display site plan. Code Enforcement Officials will make available written procedures for businesses to follow when applying for or renewing a conditional display permit.
- (14) Any retail display not meeting the above requirements may be granted only through the Planning Commission review and City Council approval.
- (15) No signs shall be displayed on or in conjunction with the outdoor display, except as permitted in Title 8, Chapter 6 of the City Code. (Ord. 1963, 2-25-02)

G. APPEALS

1. APPLICABILITY

Any officer, board, or agency of the City or any party aggrieved by an administrative order, requirement, decision or determination made under this Ordinance by the Zoning Administrator or other authorized administrative official, board, commission, or department of the City other than the City Council, may file an Appeal with the Zoning Board of Appeals.

2. APPROVAL PROCESS

Appeals shall be decided only in conformance with the Approval Process provided in the Filing Procedures section of this Ordinance and the Approval Criteria herein.

3. NOTICE OF APPEAL

A Notice of Appeal shall be filed with the Zoning Administrator within 20 days of the date of the order or decision being appealed.

The notice shall contain:

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- a. the name, address, and telephone number of the party filing the appeal, and
- b. the location of the property affected by the decision being appealed, and
- c. identification of the provision of the Ordinance governing the decision being appealed, and
- d. a statement of the grounds on which the Appeal is based, and
- e. the reason given by the administrative official or body for the decision, and
- f. a brief summary of the factual evidence upon which the Appeal is based, and
- g. a plot plan and verbal description of the use affected by the decision being appealed.

4. STAY OF PROCEEDINGS

The filing of a Notice of Appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Zoning Appeals that in his or her judgment a stay would cause imminent peril to life, health, or property. In such case, no proceedings shall be stayed without issuance of a restraining order by the Board or a court of record.

5. APPROVAL CRITERIA

The Board shall reverse the decision appeal only if it finds that such decision:

- a. was arbitrary or capricious, or
- b. was based on an erroneous finding of a material fact, or
- c. constituted an abuse of discretion, or
- d. was based on an erroneous interpretation of the Zoning Ordinance or zoning law.