

Dates to Remember for Zoning Amendment

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. It is recommended that you provide a copy of your Notice of Intent for review at this time.
- 2.. _____ - to _____ -
"Window" for petitioner to send "Notice of Intent" notices to owners within 250 feet of parcel, either in person to owner **OR** by Certified Mail Return Receipt Requested. See Section 158.256 and sample letter attached for notice requirements.
3. _____ (Wednesday before the hearing) - **To Vicki:**
 - Copy of letter **AND** all green Certified Mail Return Receipts (or envelope returned from Post Office as refused) with receipt showing date received at Post Office attached to each one **OR** original letter signed by owners with date received if presented in person.
 - Statement of Compliance certifying that you have done all that is required of you as outlined in Chapter 158 Articles 12, 13, and 14 of the Code of Ordinances.
4. _____ -
Public Hearing with Planning Commission in City Council Chambers (6:00 p.m.)

If you have any questions regarding your petition, please do not hesitate to contact the Planner or Vicki Evans 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 scheduled meeting. 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.

PETITION FOR ZONING AMENDMENT

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

Amendment Request No. _____
 Date: _____

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

Date set for hearing: _____	Perm. Parcel No. _____ - _____ - _____
Date hearing held: _____	Fee paid: \$ _____ Date: _____
Newspaper: _____	Building Permit App. No. _____
Recommendation of Planning Commission:	Action by City Council:
() Denied	() Denied
() Approved	() Approved
() Approved with modification	() Approved with modification
Date: _____	Date: _____

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

- Name of property owner(s): _____ Phone: _____
 Mailing address: _____ E-Mail: _____
- Applicant's name: _____ Phone: _____
 Mailing address: _____ E-Mail: _____
- Property interest of applicant (Owner, Contractor, etc.): _____
- Address of property: _____ Parcel (Tax) ID #: _____
- Present use of property: _____ Present Zone District: _____
 Proposed use of property: _____ Proposed Zone District: _____
- Zone District Classifications of adjacent properties: _____
- Area of land rezoning requested for: _____ acres/square feet.
- This application must be filed with two copies of a plat map of the subject property drawn to a scale not less than one (1) inch equals Two-Hundred (200) feet.
- An amendment is requested to amend the zone district classification of certain described properties shown on the Zone District Map. A statement of the applicant's described reasons and factual information supporting the requested rezoning is attached.

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: _____

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 zoning amendment to the City of O'Fallon on [date your petition was submitted]. The zoning amendment is from [current zoning district] to [proposed zoning district] for the purpose of [what your intended use of the property is.]

The zoning amendment 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 owner of the subject property for the zoning amendment].

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

If you have any questions regarding the zoning amendment, please feel free to contact me at [applicant's phone number] or the City of O'Fallon Community Development Department 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 Amendment 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 Code of Ordinances for the Petition for **[subject property address]**, O'Fallon, Illinois, which we filed for on **[filing date]**.

Signed,
[Applicant(s)]

O'Fallon, Illinois Code of Ordinances

**ARTICLE 12:
ZONING AMENDMENTS****§ 158.240 WHO MAY APPLY.**

(A) *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.

(B) *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.

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

§ 158.241 CONSIDERATION OF ZONING TEXT AMENDMENTS.

(A) 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 §§ 158.255 through 158.257 of this chapter. The recommendation of the Commission is advisory.

(B) 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.

(C) 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.

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

§ 158.242 CONSIDERATION OF PROPERTY REZONING APPLICATIONS.

(A) *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 §§ 158.255 through 158.257 of this chapter.

(B) *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 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.

(C) *Protest petitions.*

(1) 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 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 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.

(2) 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.

(3) 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.

(D) *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 of all members of the governing body.

(E) *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.

- (1) The existing uses and zoning of nearby property;
- (2) The extent to which property values are diminished by the particular zoning restrictions;

- (3) The extent to which the destruction of property values of plaintiff promote the health, safety, morals or welfare of the public;
- (4) The relative gain to the public as compared to the hardship imposed upon the individual property owner;
- (5) The suitability of the subject property for the zoned purposes;
- (6) 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;
- (7) The care that the community has taken to plan its land use development; and
- (8) The community need for the proposed use.

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

§ 158.243 LIMITATION ON SUCCESSIVE PROPERTY REZONING APPLICATIONS BY LANDOWNER.

(A) 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 12 months.

(B) For purposes of division (A) above, the preceding 12-month period shall be determined as follows.

(1) If there was final action (either approval or denial) on the prior application, the 12-month period shall run from the date of the action.

(2) If the prior application was withdrawn after being advertised for public hearing, the 12-month period shall run from the date the application was withdrawn.

(C) (1) The Director shall determine if an application concerns “substantially the same property” as a prior application.

(2) The landowner may appeal the Director’s determination to the governing body.

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

ARTICLE 13: NOTICES AND HEARINGS

§ 158.255 PUBLICATION NOTICES.

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

make sure said public notice is published pursuant to this section. Notice for text amendments shall include a brief statement describing the requested change.

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

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

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

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

§ 158.256 NOTICES OF HEARING TO SURROUNDING PROPERTY OWNERS.

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

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

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

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

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

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

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

§ 158.257 PUBLIC HEARINGS.

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

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

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

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

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

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

ARTICLE 14: GENERAL APPLICATIONS AND PROCEDURES

§ 158.270 GENERAL.

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

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

§ 158.271 APPLICATIONS.

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

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

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

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

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

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

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

§ 158.272 PRE-APPLICATION CONFERENCE.

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

(B) The purpose of this conference is to:

- (1) Acquaint the applicant with the procedural requirements of this chapter;
- (2) Provide for an exchange of information regarding applicant's proposed development and the regulations, restrictions and requirements of this chapter, the Comprehensive Plan and other development requirements;
- (3) Advise the applicant of any technical studies or public sources of information that may aid the application;
- (4) Identify policies and regulations that create opportunities or pose significant restraints for the proposed development;
- (5) Review any proposed concept plans and consider opportunities to increase development benefits and mitigate undesirable project consequences;
- (6) Review whether the application is compatible with adjacent proposed or existing development; and
- (7) Permit assistance by city staff with the development's general design.

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

§ 158.273 GENERAL APPLICATION REQUIREMENTS.

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

- (1) Date prepared;
- (2) Name, address and telephone number of the applicant and the name, address and telephone number of the landowner if different than the applicant;
- (3) Affidavit of ownership pursuant to § 158.271 of this chapter;
- (4) Such information and certifications required by § 158.256 of this chapter;
- (5) Name, address and telephone number of all persons preparing any technical studies, maps, drawings and documents submitted with the application;
- (6) Form provided by Director, signed by both the landowner and the Director, that shows a pre-application conference has occurred as required herein;
- (7) Accurate legal description of the property for which the application is submitted;
- (8) Any technical studies that may be required by the Director;

- (9) Statement regarding adequate public facilities and services for the proposed development;
- (10) Small key map with north arrow indicating the location of the property within the city;
- (11) A statement of the reasons for the request; and
- (12) A statement of when development of the land area covered by the application is contemplated to commence after the application is approved.

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

- (1) Date prepared;
- (2) Name, address and telephone number of the person who prepared, or person responsible for preparing, the map;
- (3) Graphic, engineering scale;
- (4) North arrow;
- (5) Location of property lines of the subject property;
- (6) Approximate existing and proposed grades based on U.S.G.S. datum at ten-foot contour intervals or spot grades for preliminary submissions (including sketch plans), and five- or two-foot contour intervals for final submissions (including final development plans); and
- (7) Existing conditions showing the following:
 - (a) All existing streets and rights-of-way on the land area covered by the application and on all property within 250 feet of the boundaries of the property, including street name and widths of pavement and rights-of-way;
 - (b) Names of any abutting subdivisions, and the names of owners of abutting property on unsubdivided parcels;
 - (c) Land use and zoning classification with district boundary lines of all property abutting and all property within 250 feet of the boundaries of the property covered by the application;
 - (d) All existing drainage channels on the land area covered by the application;
 - (e) The location and size of all existing utilities and easements on the land area covered by the application; and
 - (f) The location and elevation of all areas designated as 100-year floodplain areas by the Federal Emergency Management Agency on the land area covered by the application.

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

§ 158.274 SUBMISSION OF TECHNICAL STUDIES.

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

(1) The Director may require applicants to submit any technical studies that the Director deems necessary to enable the appropriate person or entity to fully evaluate the application.

(2) Examples of technical studies that may be required shall include, but not be limited to, traffic studies, engineering studies, geologic or hydrogeologic studies, flood studies, environmental impact assessments, noise studies or surface water management/drainage studies. The persons or firms preparing the studies shall be approved by the Director.

(3) The costs of all studies shall be borne by the applicant.

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

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

§ 158.275 WHEN APPLICATIONS DEEMED COMPLETE.

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

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

§ 158.276 APPLICATION AND SUBMISSION DEADLINES.

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

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

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

§ 158.277 DUAL APPLICATIONS.

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

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

§ 158.278 CITY STAFF REVIEW.

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

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

§ 158.279 CONDITIONAL APPROVALS.

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

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

§ 158.280 WRITTEN FINDINGS NOT REQUIRED; WHEN.

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

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

§ 158.281 FINAL DECISION WHERE ORDINANCE REQUIRED.

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

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

(1) The governing body votes to deny the application; or

(2) An ordinance with respect to such application fails to receive number of votes required by law.

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

§ 158.282 APPEALS OF FINAL DECISIONS.

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

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