

ARTICLE XVI. SPECIAL EXCEPTIONS

SECTIONS

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Sec. 150.1601 Purpose.

In those specific instances enumerated in this Article in which the authorization of an exception from the otherwise applicable zoning restrictions will be consistent with the Master Plan and planning policies and objectives of the City, will promote the welfare of the City (or a part thereof) and its residents, and will not adversely affect the value, use, or enjoyment of any adjacent or nearby property, special exceptions from the particular provisions of this Chapter may be allowed in order to permit the construction or reconstruction of a structure, or a waiver or reduction of applicable zoning restrictions with respect to any use of a structure, or a change in use of an existing structure.

Sec. 150.1602 Authority to Grant Special Exceptions.

The City Council shall have authority to grant special exceptions, but only after the Zoning Board of Appeals (and/or the Plan and Design Commission in those instances specified in Section 150.1607 and/or Section 150.1608) shall have held a hearing on the proposed special exception and prepared and submitted to the City Council its written findings of fact, conclusions, and recommendations with respect thereto. (Ord. 59-15, passed 6/8/15)

Sec. 150.1603 Application for Special Exceptions.

(A) The petitioner shall file an application for a special exception with the Zoning Administrator on forms provided by the Zoning Administrator, who shall forward a copy without delay to the City Clerk for processing of payment and preparation and publication of legal notice.

(B) The application for a special exception shall contain the following information, as well as such additional information may be prescribed by rule of the Zoning Board of Appeals and/or the Plan and Design Commission, as the case may be: (Ord. 59-15, passed 6/8/15)

- (1) The present zoning of the subject property;
- (2) The present use of the subject property;

(3) A survey of the subject property, including its dimensions, and showing all improvements located thereon;

(4) A site plan showing the dimensions and location of any proposed new structure, or addition, and/or enlargement to an existing structure together with a statement of the total area of the proposed structure, including any addition and/or enlargement;

(5) A statement of the special exception requested;

(6) A legal description of the subject property;

(7) The commonly known location (address) of the subject property;

(8) The name and address of the petitioner and the attorney of the petitioner, if any;

(9) The name and address of the legal owner of the subject property; and

(10) Plans and other data.

(C) All applications shall be verified by the applicant.

(1) In the event application is made by the trustee or beneficiary of any land trust, the application shall identify each beneficiary of such land trust by name and address and define and identify such beneficiary's interest therein.

(2) Each application shall be governed by additional administrative procedures as may be prescribed by the Zoning Board of Appeals and/or Plan and Design Commission, as the case may be. (Ord. 59-15, passed 6/8/15)

(D) At the time of filing, the application for a special exception shall be accompanied by:

(1) Proof of ownership or current contract to purchase or lease the subject property, accompanied by proof of authority to file the application of behalf of the owner, since only persons owning or having interest in the subject property may file an application for a special exception; and

(a) Each application shall be signed by the owner of record of the subject property; and

(b) If the application is made by the trustee or beneficiary of a land trust, the application shall identify each beneficiary of such land trust by name and address and identify such beneficiary's interest therein.

(2) Payment of an application fee equal to the amount established from time to time by resolution adopted by the City Council and maintained in the office of the Zoning Administrator.

Sec. 150.1604 Processing, Notice, and Hearing.

(A) Upon receipt by the Zoning Administrator of a complete application for special exception that has been duly filed, the Zoning Administrator shall assign a case and/or docket number to the application, shall schedule the matter for hearing before the Zoning Board of Appeals or the Plan and Design Commission, as the case may be, and shall maintain a file for such application, which file shall be open to the public for inspection during regular business hours. All pertinent documents, including but not limited to the application, legal notice, evidence, and transcript of proceedings, if any, shall be placed in the file. (Ord. 59-15, passed 6/8/15)

(B) No more than ninety (90) days after the filing of an application, a hearing shall be held on the application.

(C) Not more than thirty (30) days nor less than fifteen (15) days before the hearing date on which the application for special exception is to be considered, the City Clerk shall cause notice thereof to be published in one or more newspapers published in the City, or, if no newspaper is published within the City, then in one or more newspapers with a general circulation within the City. In addition to such published notice, not more than thirty (30) days nor less than fifteen (15) days before the hearing, the applicant or his attorney must notify in person or by certified mail (return receipt requested) the owners of all property within two hundred fifty (250) feet (exclusive of rights-of-way) of the legal boundaries of the subject property. Proof of such notification must be presented at the hearing.

Each of the notices required in this Section shall contain:

- (1) The legal description of the subject property;
- (2) The address of the subject property;
- (3) A brief statement of the nature of the requested special exception;
- (4) The name(s) and address(es) of the legal and/or beneficial owner(s) of the subject property;
- (5) The name(s) and address(es) of the petitioner(s);
- (6) The name of the legal representative of the petitioner, if any; and
- (7) A statement of the date, time, and place of the hearing for which the notice is being given.

(D) Prior to the hearing, the Zoning Administrator shall also cause one or more signs to be posted on the subject property.

- (1) The number and location of signs shall be determined by the Zoning Administrator.

(2) Each sign must be a minimum of 24" x 24" in size, have letters a minimum of 3/8" stroke wide by 2-1/2" high, and contain the following information:

(a) The fact that a public hearing will be held regarding the subject property, with direction to interested members of the general public to call the office of the Zoning Administrator for further information concerning date, time, and place and subject matter of the public hearing; and

(b) The telephone number of the Zoning Administrator.

(E) Within ten (10) days after the commencement of the public hearing regarding the proposed special exception, the City shall cause the removal of the sign or signs from the subject property and return same to the office of the Zoning Administrator.

(F) Any interested party may appear in person, by agent, or by attorney, and be heard at the hearing held pursuant to any such application for special exception.

Sec. 150.1605 Authorized Special Exceptions.

Provided findings have been made pursuant to the standards contained in Section 150.1606, the following special exceptions, and no others, may be authorized by the City Council:

(A) A reduction in the amount of required accessory off-street parking for any new structure; and

(B) A waiver or reduction of the accessory off-street parking requirements for an existing structure or use or for a change in use of an existing structure.

Sec. 150.1606 Standards for Special Exceptions.

No special exception shall be recommended unless the recommendation is accompanied by findings of fact that support the applicable standards set out in this Section.

(A) With respect to each recommendation to grant a request for a special exception, affirmative findings of fact shall be made that the special exception meets each of the following standards:

(1) That the proposed special exception will be consistent with the Highland Park Comprehensive Plan and the planning policies of the City, and further that the proposed special exception will promote or implement achievement of the Comprehensive Plan, and the planning policies and objectives of the City; and

(2) That the proposed special exception will not occasion or aggravate parking or traffic congestion on streets adjacent to or in the vicinity of the real estate to which the special exception is proposed to apply (hereinafter referred to in this Article as "Subject Property"); and

(3) That the proposed special exception will not have a substantial adverse effect upon the value, use, or enjoyment of property in the vicinity of the Subject Property.

(B) With respect to a recommendation to grant a request for a special exception entailing the reduction of off-street parking spaces otherwise required for new structures other than additions to or alterations of existing structures, in addition to affirmative findings of fact that the proposed special exception meets the general standards contained in Subparagraph (A) hereinabove, affirmative findings of fact shall be made that the proposed special exception meets with the following standards as well:

(1) That, pursuant to a demonstration thereof (by accepted standards or studies of parking demand), the proposed use of the Subject Property will not in fact utilize as much off-street parking as required by the off-street parking provisions of this Chapter as applied to other real property lying within the same zoning district as that of the Subject Property; and

(2) That strict enforcement of the off-street parking requirements of this Chapter would likely prohibit development of the Subject Property with a use that is consistent with the Comprehensive Plan and planning policies of the City as well as the zoning of the Subject Property.

(C) With respect to a recommendation to grant a request for a special exception entailing the waiver or the reduction of off-street parking spaces otherwise required for an existing structure including additions and/or alterations thereto, in addition to affirmative findings of fact that the proposed special exception meets the general standards contained in Subparagraph (A) hereinabove, affirmative findings of fact shall be made that the proposed special exception meets the following standards as well:

(1) That, when constructed, the existing structure must have been lawful and conforming with respect to the number of off-street parking spaces provided, and is now either conforming or lawfully non-conforming with respect to the number of off-street parking spaces provided; and

(2) That, either:

(a) The proposed alteration of the existing structure or change in use thereof will not increase or expand the extent to which the existing structure or existing use does not conform to the off-street parking requirements of this Chapter as applied to other real property lying within the same zoning district as that of the Subject Property; or

(b) In the event the proposed alteration of the existing structure or proposed change in use thereof will either increase the number of required off-street parking spaces and/or increase the extent to which the existing structure or use does not conform to the off-street parking requirements of this Chapter as applied to other real property lying within the same zoning district as that of the Subject Property, a demonstration (by accepted standards or studies of parking demand) that the proposed use of the Subject Property will not in fact utilize as much off-street parking as required by the off-street parking provisions of this Chapter.

Sec. 150.1607 Alternative Review by Plan and Design Commission.

(A) Upon the filing of any given application for a special exception, the Zoning Administrator shall review the application and if he determines: 1) that the request for a special exception raises planning issues of particular significance or importance, or 2) that the application relates to an existing or proposed Planned Unit Development, the Zoning Administrator shall refer the request to the Plan and Design Commission (in lieu of the Zoning Board of Appeals) to hold a public hearing on the request and submit its findings and recommendations with respect thereto to the City Council. (Ord. 59-15, passed 6/8/15)

(B) In the event that, during the course of a hearing before the Zoning Board of Appeals on a request for a special exception, it appears to the said Board that the request involves planning issues of particular significance or importance, the Zoning Board of Appeals may redirect the request for such given special exception to the Plan and Design Commission which shall assume jurisdiction and proceed as though the request for a special exception had been directed to it in the first instance. (Ord. 59-15, passed 6/8/15)

(C) In the case of any application for a special exception that is referred to the Plan and Design Commission by the Zoning Administrator, the Plan and Design Commission shall: (Ord. 59-15, passed 6/8/15)

(1) Give notice and conduct a public hearing in accordance with Section 150.1604;

(2) Apply the standards set forth in Section 150.1606; and

(3) Have the same authority as is conferred upon the Zoning Board of Appeals by Section 150.1608 to recommend conditions and restrictions of the proposed special exception.

Sec. 150.1608 Conditions and Restrictions.

Within 45 days after the last session of the public hearing on a proposed special exception, the Zoning Board of Appeals (and/or the Plan and Design Commission, as the case may be) may recommend, and thereafter the City Council, in granting any given special exception, may impose, additional conditions and restrictions. The failure of the Zoning Board of Appeals or the Plan and Design Commission to provide a recommendation within such 45 day period, or such further time to which the applicant may, in writing, agree, shall be deemed a recommendation against the approval of the special exception. Notwithstanding the foregoing, each special exception shall expire upon a change in use of the Subject Property or upon demolition, removal, or major structural alteration of any structure located upon the Subject Property (except for any change in use, or demolition, removal, or structural alteration contemplated by the special exception). (Ord. 18-04, J. 30, p. 49-54, passed 3/8/04; Ord. 59-15, passed 6/8/15))

(A) In the event the City Council authorizes the requested special exception, in lieu of providing the normally required automobile parking spaces, the applicant shall pay a fee for each such parking space not so provided pursuant to such special exception, which payment, pursuant to the provisions of this Section, shall be placed into a City fund to be used by the City for the acquisition and maintenance of public off-street parking and

loading facilities to serve the zoning district wherein the Subject Property is located. Upon payment of the fee to the City, the owner of the Subject Property shall be credited (for so long as the special exception exists) by ordinance with the number of spaces for which payment has been received by the City, which ordinance shall be recorded at the expense of the owner with the Lake County Recorder of Deeds.

(B) Based upon the availability and/or scarcity of land in the several zoning districts, as the case for each such district may be, the fee for each such parking space not so provided pursuant to such special exception shall be established from time to time by resolution of the City Council.

Sec. 150.1609 Action on Special Exceptions.

The concurring vote of four members of the Zoning Board of Appeals or five members of the Plan and Design Commission, as the case may be, shall be necessary to recommend approval of a request for a special exception. (Ord. 59-15, passed 6/8/15)

Sec. 150.1610 Duration of Special Exceptions.

Unless construction, alteration, or change of use of the building is commenced within a one year period pursuant to such special exception, no grant of a special exception shall be effective for more than one year . Upon a request to the Zoning Board of Appeals made by the original applicant for such special exception prior to the expiration of such initial one year period the Zoning Board of Appeals may recommend, and the City Council may approve, for good cause shown, an extension of the one year period as may appear reasonable to the City Council, but not to exceed an additional one year period.

Sec. 150.1611 Notice of Special Exception.

At the sole cost of the applicant for such given special exception, a copy of the text of the ordinance adopted by the City Council granting the special exception shall be recorded by the Department of Community Development with the Recorder of Deeds of Lake County, Illinois.