

**CHAPTER 6 - PERMITS AND PROCEDURES****6.000 ANNEXATION****AN**

- 6.010 Annexation Criteria. A proposal to annex territory to the City shall be conducted under the Type IV procedure with supplements or modifications required to comply with state law. When an annexation proposal has been initiated and the Director has determined the territory is eligible for annexation, it shall be referred to the Planning Commission. The Commission shall base its recommendation to the City Council on whether the following criteria have been met:
- A. The proposal conforms to the Comprehensive Land Use Plan, or substantial changes in conditions have occurred which render the Comprehensive Land Use Plan inapplicable to the annexation.
  - B. Inclusion of the territory within the City would be consistent with the purpose served by the City. [Adopted by Ord. 550, ef. 9/25/90]
- 6.020 City Council Review. The City Council shall make affirmative findings on the two criteria if it proceeds with the annexation. However, proceedings may be terminated by the Council at any time. [Adopted by Ord. 550, ef. 9/25/90]
- 6.030 Designation of Annexed Property. Territory annexed to the City shall remain subject to the land development regulations of the County until changed by the City. Such change may be entirely or partially carried out as a part of the annexation proceedings if included in the Type IV proceedings of the City Council. Within 30 days after the effective date of annexation, the Director shall report on any further steps that appear necessary to have the annexed territory fully subject to the provisions of this code, and shall initiate appropriate action to have those steps carried out. If the City Council finds it is important to the protection or implementation of City policies, interim regulations may be applied in the annexed area until more permanent action can be taken. [Adopted by Ord. 550, ef. 9/25/90]

**6.100 VACATION VA**

6.110 Vacation Criteria. A proposal to vacate a street, public square, or other public place shall be conducted under the Type IV procedure, with supplements or modifications required to comply with state law. The Planning Commission shall base its recommendation to the City Council on whether the following criteria have been met:

- A. The proposal does not cause a conflict with the Comprehensive Land Use Plan.
- B. The public interest will not be prejudiced by the vacation. [Adopted by Ord. 550, ef. 9/25/90]

6.120 City Council Action. The City Council shall make affirmative findings on these criteria if it proceeds with a vacation under administrative rather than legislative proceedings. Proceedings may be terminated by the City Council at any time. [Adopted by Ord. 550, ef. 9/25/90]

6.130 Conditions Attached to a Vacation. The following reservations or conditions may be attached to the approval of a vacation:

- A. Retention of an easement for a public utility or other public service facility, and limitations on the use of the area adjacent to such facility.
- B. Construction or removal of a public utility or other public service utility.
- C. Another matter of like or different nature related to any of the following:
  - 1. The area to be vacated.
  - 2. A remaining or relocated street area within, or adjacent to, the vacated property.
  - 3. An area dedicated or reserved as a condition to the vacation. [Adopted by Ord. 550, ef. 9/25/90]

**6.200 VARIANCE** **MV****6.210 Type I Variance Procedure.**

[Adopted by Ord. 550, ef. 9/25/90; Repealed by Ord. 705, ef. 5/10/01]

**6.220 Type II Variance Procedure.**

[Adopted by Ord. 550, ef. 9/25/90; Repealed by Ord. 705, ef. 5/10/01]

**6.230 Authority to Grant a Type I Variance.**

[Adopted by Ord. 550, ef. 9/25/90; Repealed by Ord. 705, ef. 5/10/01]

**6.240 Type III Special Variance Procedure.**

[Adopted by Ord. 550, ef. 9/25/90; Repealed by Ord. 705, ef. 5/10/01]

**6.250 Authority to Grant a Type II Special Variance.**

[Adopted by Ord. 550, ef. 9/25/90; Repealed by Ord. 705, ef. 5/10/01]

**6.205 General Provisions.**

- A. The variance procedures are intended to allow modifications of specific standards contained within this code where difficulties exist which render compliance with the standards impractical and such compliance would create unnecessary hardship to the owner or user of land or buildings.
- B. In approving a variance request, the approving authority may attach reasonable conditions, restrictions, or safeguards to mitigate any adverse impacts which may result by reason of the approved variance.
- C. Separate variance provisions apply to uses within the Vegetation Corridor and Slope District and the Flood Management Area. [Adopted by Ord. 705, ef. 5/10/01]

**6.210 Regulations Which May Not Be Varied.**

- A. No variance may be granted which will permit a use not permitted in the applicable zoning district.
- B. No variance may be granted which will increase the maximum residential density or decrease the minimum residential density allowed in the applicable zoning district.
- C. No variance may be granted to the provisions of chapter 5.300, Nonconforming Uses and Developments. [Adopted by Ord. 705, ef. 5/10/01]

**6.215 Type I Variance.** The Director may grant a variance under the Type I procedure if the request involves the expansion or reduction of a quantifiable provision in this code by no more than ten percent, and the following criteria are met:

- A. Special circumstances or conditions including, but not limited to, lot size, lot shape, topography, or size or shape of building, apply to the property, development, or to the intended use and are not typical of the general conditions in the surrounding area;

- B. The variance authorized will not be injurious to adjacent properties or the surrounding neighborhood or otherwise detrimental to the public welfare;
  - C. The variance authorized will be consistent with the general purpose and intent of the provision from which a variance is sought; and
  - D. The variance is the minimum necessary to relieve a practical difficulty and the resulting hardship. [Adopted by Ord. 705, ef. 5/10/01]
- 6.220 Type II Variance. The Director may grant a variance under the Type II procedure if the request involves only the expansion or reduction of a quantifiable provision in this code by more than ten percent, but not more than 30%, and the criteria in section 6.215 of this chapter are met. [Adopted by Ord. 705, ef. 5/10/01]
- 6.225 Type III Variance. The Planning Commission may grant a variance under the Type III procedure if the request involves the expansion or reduction of a quantifiable provision in this code by more than 30%, or if this request is referred to the Planning Commission in accordance with section 6.235 of this chapter and the criteria in section 6.215 of this chapter are met. [Adopted by Ord. 705, ef. 5/10/01]
- 6.230 Type III Special Variance. The Planning Commission may grant a special variance under the Type III procedure if the request involves waiving a provision in this code not involving a quantifiable standard, and the following criteria are met:
- A. The unique nature of the proposed development is such that the intent and purpose of the regulations and of the provisions to be waived will not be violated;
  - B. Authorization of the special variance will not be materially detrimental to the public welfare and will not be injurious to other property in the area when compared with the effects of development otherwise permitted; and
  - C. The provision to be waived is unreasonable and unwarranted due to the specific nature of the proposed development. [Adopted by Ord. 705, ef. 5/10/01]
- 6.235 Referral to Planning Commission. The Director may refer any variance request involving the expansion or reduction of a quantifiable provision of this code by 30% or less to the Planning Commission if the Director determines that a higher level of review is justified given the complexity or controversial nature of the request. A variance that is referred to the Planning Commission shall be considered in accordance with section 6.225 of this chapter. [Adopted by Ord. 705, ef. 5/10/01]

**6.300      CONDITIONAL USE      CU**

- 6.310      Purpose. This section provides for uses specified in the zoning districts as conditional uses. A conditional use permit may be considered under the Type III procedure provided that any such conditional use would not be detrimental to the adjoining properties or to the purpose and intent of the Comprehensive Land Use Plan. [Adopted by Ord. 550, ef. 9/25/90]
- 6.320      Scope. Approval of a conditional use permit shall not constitute a zone change and shall be granted only for the specific use requested. Any change of use, modification, or limitation of conditions from an approved conditional use shall be subject to Planning Commission approval after a public hearing, except as authorized in section 6.395 of this chapter. [Adopted by Ord. 550, ef. 9/25/90; Amended by Ord. 791, ef. 2/21/08]
- 6.330      Application. A written application for a conditional use by a property owner or authorized representative shall be filed with the Planning Division indicating the section of this code under which the conditional use is sought on forms provided by the Planning Division. The application shall include site plans, drawn to scale, showing the dimension and layout of the proposed use with other information and drawings as may be required to provide an understanding of the proposed conditional use and its relationship to surrounding property. [Adopted by Ord. 550, ef. 9/25/90]
- 6.340      Approval Criteria. The Planning Commission may approve an application, approve with modifications, or deny an application for a conditional use after a hearing. The applicant must submit evidence substantiating that all requirements of this code relative to the proposed use are satisfied and demonstrate that the proposed use also satisfies the following criteria:
- A.      The use is listed as a conditional use in the underlying district, or approved by the Planning Commission for consideration as a conditional use.
  - B.      The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features.
  - C.      The proposed use of the site is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use.
  - D.      The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district.
  - E.      The proposed use will provide adequate open space, landscaping, and aesthetic design to mitigate any possible adverse effect on surrounding properties and uses.
  - F.      The proposed use will not result in use of the land for any purpose which may create, or cause to be created, any public nuisance including, but not limited to, air, land, or water degradation, noise, glare, heat, vibration, or other considerations which may be injurious to public health, safety, and welfare.

- G. The proposal satisfies the goals and policies of the Comprehensive Land Use Plan which apply to the proposed use, as well as the purposes of this section and applicable provisions of this code.
- H. Owners of property within 250 feet of the boundary of the subject property have been notified of the hearing. [Adopted by Ord. 550, ef. 9/25/90]

6.350 Conditions. The Planning Commission may attach to an approved conditional use reasonable conditions, restrictions, or safeguards that would uphold the purpose and intent of this section and mitigate any adverse impact upon adjoining properties which may result by reason of the approved conditional use. A list of conditions may include, but is not limited to, the following:

- A. Increasing the required lot size or yard dimensions.
- B. Increasing street width.
- C. Increasing the number of off-street parking or loading spaces or area.
- D. Improving public facilities such as:
  - 1. Water supply;
  - 2. Sanitary sewers;
  - 3. Storm drainage;
  - 4. Sidewalks, curbs, and other street improvements; and
  - 5. Fire hydrants.
- E. Controlling the location and number of vehicular access points to and from the site.
- F. Limiting lot coverage or height of buildings.
- G. Undergrounding of utilities.
- H. Public safety and crime prevention measures.
- I. Requiring landscaping, fencing, diking, screening, or berms.
- J. Limiting the number, size, and location of signs.
- K. Land dedication or money in lieu of dedication for public purposes.
- L. Bonds or other suitable security to ensure that requirements are met.
- M. Submittal of final detailed plans indicating conformance with conditions. [Adopted by Ord. 550, ef. 9/25/90]

- 6.360 Conditional Use Permit. A conditional use permit shall be obtained before site development. The permit shall specify any conditions, limitations, and/or restrictions imposed by the Planning Commission in addition to those specifically set forth in this section. [Adopted by Ord. 550, ef. 9/25/90]
- 6.370 Expiration. Approval of a conditional use permit shall be void after two years, or such lesser time as the Planning Commission may specify, unless substantial construction has taken place. However, the Director may grant a one-time, one-year extension if the applicant requests such an extension before the expiration of the initial time limit. Extensions beyond one-year may be granted by the Planning Commission if the applicant requests such an extension before the expiration of the initial time limit or the expiration of the Director's one-year extension, where one has been granted.. [Adopted by Ord. 550, ef. 9/25/90; Amended by Ord. 791, ef. 2/21/08]
- 6.380 Building Permit. A building permit for all or any portion of a conditional use shall be issued only on the basis of the plan as approved by the Planning Commission. Any change in the approved plan shall be submitted to the Planning Commission as a new application, except as authorized in section 6.395 of this chapter. [Adopted by Ord. 550, ef. 9/25/90; Amended by Ord. 791, ef. 2/21/08]
- 6.390 Revocation. A conditional use permit shall be subject to revocation by the Planning Commission if the application is found to include false information, or if the conditions of approval have not been complied with or are not being maintained.
- A. The Planning Commission shall hold a public hearing in order for the applicant to show cause why the permit should not be revoked.
  - B. If the Planning Commission finds that the conditions of approval have not been complied with or are not being maintained, a reasonable time shall be given for making correction. If corrections are not made within that time, revocation of the conditional use permit shall become effective ten days after the time specified.
  - C. Reapplication for a conditional use which has been denied or revoked cannot be made within one year after the date of the Planning Commission's action, except that the Planning Commission may allow a new application to be considered if there is new evidence or a change in circumstances. [Adopted by Ord. 550, ef. 9/25/90]
- 6.395 Changes and Modifications
- A. Minor Changes. Minor changes to an approved conditional use may be approved under a Type I or a Type II procedure depending on the nature of the change, provided that such changes meet all of the following:
    - 1. Do not violate any previous conditions of approval for the conditional use.
    - 2. Do not change the use.
    - 3. Do not change the boundaries of the development.

4. Individual or cumulative changes do not increase the floor area on the site by more than ten percent, up to a maximum of 10,000 square feet, or in those cases not involving structures, individual or cumulative changes do not increase the exterior improvement area on the site by more than ten percent, up to a maximum of 10,000 square feet.
  5. Do not increase traffic volumes to the site more than ten percent over current conditions.
- B. Major Changes. Any change to an approved conditional use that does not qualify as a minor change shall be considered a major change. Major changes shall be processed as a new application and shall be made in accordance with the procedures specified in this chapter. [Adopted by Ord. 791, ef. 2/21/08]